

in the local limits of its jurisdiction, who are exempted under this Code from attending the Court, or who are from sickness or infirmity unable to attend it.

384. Such order may be made by the Court either of its own motion, or on the application, supported by affidavit or otherwise, of any party to the suit or of the witness to be examined.

385. The commission for the examination of a person who resides within the local limits of the jurisdiction of the Court issuing the same may be issued to any person whom the Court thinks fit to execute the same.

386. Any Court may in any suit issue a commission for the examination of—

(a) any person resident beyond the local limits of its jurisdiction;

(b) persons who are about to leave such limits before the date on which they are required to be examined in Court; and

(c) civil and military officers of Government who cannot, in the opinion of the Judge, attend the Court without detriment to the public service.

Such commission may be issued to any Court, not being a High Court or the Court of the Recorder of Rangoon, within the local limits of whose jurisdiction such person resides, or to any pleader of a High Court whom the Court issuing the commission thinks fit to appoint.

The Court on issuing any commission under this section shall direct whether the commission shall be returned to itself or to any subordinate Court.

387. When any Court to which application is made for the issue of a commission for the examination of a person residing at any place not within British India is satisfied that his evidence is necessary, the Court may issue such commission.

388. Every Court receiving a commission for the examination of any person shall examine him pursuant thereto.

389. After the commission has been duly executed, it shall be returned, together with the evidence taken under it, to the Court out of which it issued, unless the order for issuing the commission has otherwise directed, in which case the commission shall be returned in terms of such order; and the commission and the return thereto, and the evidence taken under it, shall (subject to the provisions of the next following section) form part of the record of the suit.

390. Evidence taken under a commission shall not be read as evidence in the suit without the consent of the party against whom the same is offered, unless

(a) the person who gave the evidence is beyond the jurisdiction of the Court, or dead, or unable from sickness or infirmity to attend to be personally examined, or exempted from personal appearance in Court, or

(b) the Court in its discretion dispenses with the proof of any of the circumstances mentioned in the last preceding clause, and authorizes the evidence of any person being read as evidence in the suit, notwithstanding proof that the cause for taking such evidence by commission has ceased at the time of reading the same.

391. The provisions herebefore contained as to the execution and return of commissions shall apply to commissions issued by foreign Courts.

(a) Courts situate beyond the limits of British India and established by the authority of Her Majesty or of the Governor General in Council, or

(b) Courts situate in any part of the British Empire other than British India, or

(c) Courts of any foreign country for the time being in alliance with Her Majesty.

B.—Commissions for local Investigations.

392. In any suit or proceeding in which the Court deems a local investigation to be requisite or proper for the purpose of elucidating any matter in dispute, or of ascertaining the market-value of any property, or the amount of any mesne profits or damages or annual nett profits, and the same cannot be conveniently conducted by the Judge in person, the Court may issue a commission to such person as it thinks fit, directing him to make such investigation and to report thereon to the Court:

Provided that, when the Local Government has made rules as to the persons to whom such commission shall be issued, the Court shall be bound by such rules.

393. The Commissioner, after such local inspection as he deems necessary, and after reducing to writing the evidence taken by him, shall return such evidence, together with his report in writing, signed with his name, to the Court.

The report of the Commissioner and the evidence taken by him (but not the evidence without the report) shall be evidence in the suit and shall form part of the record; but the Court, or, with the permission of the Court, any of the parties to the suit, may examine the Commissioner personally in open Court touching any of the matters referred to him or mentioned in his report, or as to the manner in which he has made the investigation.

Report and depositions to be evidence in suit.

Commissioner may be examined in person.

C.—Commissions to examine Accounts.

394. In any suit in which an examination or adjustment of accounts is necessary, the Court may issue a commission to such person as it thinks fit directing him to make such examination or adjustment.

395. The Court shall furnish the Commissioner with such part of the proceedings and such detailed instructions as appear necessary,

and the instructions shall distinctly specify whether the Commissioner is merely to transmit the proceedings which he may hold on the inquiry, or also to report his own opinion on the point referred for his examination.

The proceedings of the Commissioner shall be received in evidence in the suit, unless the Court has reason to be dissatisfied with them, in which case the Court shall direct such further inquiry as is requisite.

D.—Commission to make Partition.

396. In any suit in which the partition of immoveable property not paying revenue to Government appears to the Court to be necessary, the Court, after ascertaining the several parties interested in such property and their several rights therein, may issue a commission to such persons as it thinks fit to make a partition according to such rights.

The Commissioners shall ascertain and inspect the property, and shall divide the same into as many shares as may be directed by the order under which the commission issues, and shall allot such shares to the parties, and may, if authorized thereto by the said order, award sums to be paid for the purpose of equalizing the value of the shares.

The Commissioners shall then prepare and sign a report, or (if they cannot agree) separate reports, appointing the share of each party, and distinguishing each share (if so directed by the said order) by metes and bounds. Such report or reports shall be annexed to the commission and transmitted to the Court; and the Court, after hearing any objections which the parties may make to the report or reports, shall either quash the same and issue a new commission, or (where the Commissioners agree in their report) pass a decree in accordance therewith.

E.—General Provisions.

397. Before issuing any commission under this Chapter, the Court may order such sum (if any) as it thinks reasonable for the expenses of the commission to be, within a time to be fixed by the Court, paid into court by the

party at whose instance or for whose benefit the commission is issued.

398. Any Commissioner appointed under this Chapter may, unless otherwise directed by the order of appointment,

(a) examine the parties themselves and any witness whom they or any of them may produce, and any other person whom the Commissioner thinks proper to call upon to give evidence in the matter referred to him;

(b) call for and examine documents and other things relevant to the subject of inquiry;

(c) at any reasonable time enter upon or into any land or building mentioned in the order.

399. The provisions of this Code relating to the summoning, attendance and examination of witnesses, and to the remuneration of, and penalties to be imposed upon, witnesses, shall apply to persons required to give evidence or to produce documents under this Chapter, whether the commission in execution of which they are so required has been issued by a Court situate within, or by a Court situate beyond, the limits of British India.

For the purposes of this section, the Commissioner shall be deemed to be a Court of Civil Judicature.

400. Whenever a commission is issued under this chapter, the Court shall direct that the parties to the suit shall appear before the Commissioner in person or by their agents or pleaders.

If the parties do not so appear the Commissioner may proceed *ex parte*.

PART III.**OF SUITS IN PARTICULAR CASES.****CHAPTER XXVI.****SUITS BY PAUPERS.**

401. Subject to the following rules, any suit may be brought by a pauper.

Explanation.—A person is a "pauper" when he is not possessed of sufficient means to enable him to pay the fee prescribed by law for the plaint in such suit, or, where no such fee is prescribed, when he is not entitled to property worth one hundred rupees other than his necessary wearing apparel and the subject-matter of the suit.

402. No suit shall be brought by a pauper to recover compensation for loss of caste, libel, slander, abusive language or assault.

403. The application for permission to sue by a pauper shall be in writing, and shall contain the particulars required by section 50 in regard to plaints in suits:

a schedule of any moveable or immoveable property belonging to the petitioner, with the estimated value thereof, shall be annexed thereto; and it shall be signed and verified in the manner hereinbefore prescribed for the signing and verification of plaints.

404. Notwithstanding anything contained in section 36, the application shall be presented to the Court by the applicant in person, unless he is exempted from appearing in Court under section 640 or section 641, in which case the application may be presented by a duly authorized agent who can answer all material questions relating to the application, and who may be examined in the same manner as the party represented by him might have been examined had such party attended in person.

405. If the application be not framed or presented in the manner prescribed by sections 403 and 404, the Court shall reject it.

406. If the application be in proper form and duly presented, the Judge may, if he thinks fit, examine the petitioner, or his agent, when the applicant is allowed to appear by agent, regarding the merits of the claim and the property of the applicant.

When the application is presented by an agent, the Court may, if it thinks fit, order that the applicant be examined by a commission in the manner in which the examination of an absent witness may be taken under the provisions of this Code.

407. If it appear to the Court

(a) that the applicant is not a pauper, or
(b) that he has, within the two months next before the presentation of the application, disposed of any property fraudulently or with a view to obtain the benefit of this chapter, or

(c) that his allegations do not show a right to sue in such Court, or

(d) that he has entered into any agreement with reference to the subject-matter of the proposed suit under which any other person has obtained an interest in such subject-matter, the Court shall reject the application.

408. If the Court sees no reason to refuse the application on any of the grounds stated in section 407, it shall fix a day (of which at least ten days' previous notice shall be given to the opposite party and the Government Pleader) for receiving such evidence as the applicant may adduce in proof of his pauperism, and for hearing

any evidence which may be adduced in disproof thereof.

409. On the day so fixed, or as soon thereafter as may be convenient, the Court shall examine the witnesses (if any) produced by either party, and may cross-examine the applicant or his agent, and shall make a memorandum of the substance of their evidence.

The Court shall also hear any argument which the parties may desire to offer on the question whether, on the face of the application and of the evidence (if any) taken by the Court as herein provided, the applicant is or is not subject to any of the prohibitions specified in section 407.

The Court shall then either allow or refuse to allow the applicant to sue as a pauper.

410. If the application be granted, it shall be numbered and registered, and shall be deemed the plaint in the suit, and the suit shall proceed in all other respects as a suit instituted under Chapter V, except that the plaintiff shall not be liable to any court-fee (other than fees payable for service of process) in respect of any petition, appointment of a pleader, or other proceeding connected with the suit.

411. If the plaintiff succeed in the suit, the Court shall calculate the amount of court-fees which would have been paid by the plaintiff if he had not been permitted to sue as a pauper; and such amount shall be a first charge on the subject-matter of the suit, and shall also be recoverable by the Government from any party ordered by the decree to pay the same, in the same manner as costs of suit are recoverable under this Code.

412. If the plaintiff fails in the suit, or if he is dispaupered, or if the suit is dismissed under section 97 or 98, the Court shall order the plaintiff, or any person made under section 32 co-plaintiff to the suit, to pay the court-fees which would have been paid by the plaintiff if he had not been permitted to sue as a pauper;

and if it find that the suit was frivolous or vexatious, it may also punish the plaintiff with fine not exceeding one hundred rupees, or with imprisonment for a term which may extend to a month, or with both.

413. An order of refusal made under section 409 to allow the applicant to sue as a pauper shall be a bar to any subsequent application of the like nature by him in respect of the same right to sue; but the applicant shall be at liberty to institute a suit in the ordinary manner in respect of such right, provided that he first pays the costs (if any) incurred by Government in opposing his application for leave to sue as a pauper.

414. The Court may, on motion by the defendant, or by the Government Pleader, of which one week's notice in writing has been given to the plaintiff, order the plaintiff to be dispaupered—

Dispaupering.

- (a) if he is guilty of vexatious or improper conduct in the course of the suit;
- (b) if it appears that his means are such that he ought not to continue to sue as a pauper, or
- (c) if he has entered into any agreement with reference to the subject-matter of the suit, under which any other person has obtained an interest in such subject-matter.

415. The costs of an application for permission to sue as a pauper and of an inquiry into pauperism are costs in the suit.

Costs.

CHAPTER XXVII.

SUITS BY OR AGAINST GOVERNMENT OR PUBLIC OFFICERS.

416. Suits by or against the Government shall be instituted by or against (as the case may be) the Secretary of State for India in Council.

417. Persons being *ex officio* or otherwise authorized to act for Government in respect of any judicial proceeding shall be deemed to be the recognized agents by whom appearances, acts and applications under this Code may be made or done on behalf of Government.

418. In suits by the Secretary of State for India in Council, instead of inserting in the plaint the name and description and place of abode of the plaintiff, it shall be sufficient to insert the words "The Secretary of State for India in Council."

419. The Government Pleader in any court shall be the agent of the Government for the purpose of receiving processes against the said Secretary of State in Council issuing out of such court.

420. The Court, in fixing the day for the said Secretary of State in Council to answer to the plaint, shall allow a reasonable time for the necessary communication with the Government through the proper channels, and for the issue of instructions to the Government Pleader to appear and answer on behalf of the said Secretary of State in Council or the Government, and may extend the time at its discretion.

421. The Court may also, in any case in which the Government Pleader is not accompanied by any person on the part of the said Secretary of State

in Council, who may be able to answer any material questions relating to the suit, direct the attendance of such a person.

422. Where the defendant is a public officer, the Court may send a copy of the summons to the head of the office in which the defendant is employed, for the purpose of being served on him, if it appear to the Court that the summons may be most conveniently so served.

423. If the public officer on receiving the summons considers it proper to make a reference to the Government before answering to the plaint, he may apply to the Court to grant such extension of the time fixed in the summons as may be necessary to enable him to make such reference and to receive orders thereon through the proper channel;

and the Court upon such application may extend the time for so long as appears to be requisite.

424. No suit shall be instituted against the said Secretary of State in Council, or against a public officer in respect of an act purporting to be done by him in his official capacity, until the expiration of two months next after notice in writing has been, in the case of the Secretary of State in Council, delivered to, or left at the office of, a Secretary to the Local Government or the Collector of the District, and, in the case of a public officer, delivered to him or left at his office, stating the cause of action and the name and place of abode of the intending plaintiff; and the plaint must contain a statement that such notice has been so delivered or left.

425. No warrant of arrest shall be issued in such suit without the consent in writing of the District Judge.

426. If the Government undertakes the defence of a suit against a public officer, the Government Pleader, upon being furnished with authority to appear and answer to the plaint, shall apply to the Court, and upon such application the Court shall cause a note of his authority to be entered in the register.

427. If such application is not made by the Government Pleader on or before the day fixed in the notice for the defendant to appear and answer to the plaint, the case shall proceed as in a suit between private parties, except that the defendant shall not be liable to arrest, nor his property to attachment, otherwise than in execution of a decree.

428. In a suit against a public officer in respect of such act as aforesaid the Court shall exempt the defendant from appearing in person when he satisfies the Court that he cannot absent himself from his duty without detriment to the public service.

429. When the decree is against the said Secretary of State in Council or against a public officer in respect of such act as aforesaid, a time shall be specified in the decree within which it shall be satisfied; and, if the decree is not satisfied within the time so specified, the Court shall report the case for the orders of the Local Government.

Execution shall not issue on any such decree unless it remains unsatisfied for the period of three months computed from the date of the report.

CHAPTER XXVIII.

SUITS BY ALIENS AND BY OR AGAINST FOREIGN AND NATIVE RULERS.

430. Alien enemies residing in British India with the permission of the Governor General in Council, and alien friends, may sue in the Courts of British India as if they were subjects of Her Majesty.

No alien enemy residing in British India without such permission, or residing in a foreign country, shall sue in any of such Courts.

Explanation.—Every person residing in a foreign country, the Government of which is at war with the United Kingdom of Great Britain and Ireland, and carrying on business in that country without a license in that behalf under the hand of one of Her Majesty's Secretaries of State or of a Secretary to the Government of India, shall, for the purpose of the second paragraph of this section, be deemed to be an alien enemy residing in a foreign country.

431. A foreign State may sue in the Courts of British India, provided that—

(a) it has been recognized by Her Majesty or the Governor General in Council, and

(b) the object of the suit is to enforce the private rights of the head or of the subjects of the foreign State.

The Court shall take judicial notice of the fact that a foreign State has not been recognized by Her Majesty or by the Governor General in Council.

432. Persons specially appointed by order of Government at the request of any Sovereign Prince or ruling Chief, whether in subordinate alliance with the British Government or otherwise, and whether residing within or without British India, to prosecute or defend any suit on his behalf, shall be

deemed to be the recognized agents by whom appearances, acts and applications under this Code may be made or done on behalf of such Prince or Chief.

433. Any such Prince or Chief, and any ambassador or envoy of a foreign State, may, with the consent of Government certified by the signature of one of its Secretaries (but not without such consent) be sued in any competent Court not subordinate to a District Court;

Such consent shall not be given unless—

(a) the Prince, Chief, ambassador or envoy has instituted a suit in such Court against the person desiring to sue him; or

(b) the Prince, Chief, ambassador or envoy by himself or another trades within the local limits of the jurisdiction of such Court; or

(c) the subject-matter of the suit is immovable property situate within the said local limits and in the possession of the Prince, Chief, ambassador or envoy.

No such Prince, Chief, ambassador or envoy shall be arrested under this Code; and no decree shall be executed against the property of any such Prince, Chief, ambassador or envoy unless with consent of Government certified as aforesaid.

434. The Governor General in Council may from time to time, by notification in the *Gazette of India*,

(a) declare that the decrees of any Civil or Revenue Courts situate in the territories of any Native Prince or State in alliance with Her Majesty, and not established by the authority of the Governor General in Council, may be executed in British India as if they had been made by the Courts of British India, and

(b) cancel any such declaration.

So long as such declaration remains in force, the said decrees may be executed accordingly.

CHAPTER XXIX.

SUITS BY AND AGAINST CORPORATIONS AND COMPANIES.

435. In suits by a Corporation, or by a Company authorized to sue and be sued in the name of an officer or of a trustee, the plaintiff may be subscribed and verified on behalf of the Corporation or Company by any director, secretary or other principal officer of the Corporation or Company, who is able to depose to the facts of the case.

436. When the suit is against a Corporation, or against a Company authorized to sue and be sued in the name of an officer or of a trustee, the summons may be served—

(a) by leaving it at the registered office (if any) of the Corporation or Company, or

(b) by sending it by post in a letter addressed to such officer or trustee at the office (or if there be more offices than one, at the principal office in British India) of the Corporation or Company, or

(c) by giving it to any director, secretary or other principal officer of the Corporation or Company;

and the Court may require the personal appearance of any director, secretary or other principal officer of the Corporation or Company who may be able to answer material questions relating to the suit.

CHAPTER XXX.

SUITS BY AND AGAINST TRUSTEES, EXECUTORS AND ADMINISTRATORS.

437. In all suits concerning property vested in a trustee, executor or administrator, when the contention is between the persons beneficially interested in such property and a third person, the trustee, executor or administrator shall represent the persons so interested, and it shall not ordinarily be necessary to make them parties to the suit. But the Court may, if it thinks fit, order them or any of them to be made such parties.

438. When there are several executors or administrators, they shall all be made parties to a suit against one or more of them :

Provided that executors who have not proved their testator's will, and executors and administrators beyond the local limits of the jurisdiction of the Court, need not be made parties.

439. Unless the Court directs otherwise, the husband of a married husband of a married administratrix or executrix shall not be a party to a suit by or against her.

CHAPTER XXXI.

SUITS BY AND AGAINST MINORS AND PERSONS OF UNSOUND MIND.

440. Every suit by a minor shall be instituted in his name by an adult person, who in such suit shall be called the next friend of the minor, and may be ordered to pay any costs in the suit as if he were the plaintiff.

441. Every application to the Court on behalf of a minor (other than an application under section 419) shall be made by his next friend, or his guardian for the suit.

442. If a plaint be filed by or on behalf of a minor without a next friend, the defendant may apply to have the plaint taken off the file, with costs to be paid by the pleader or other person by whom it was presented. Notice of such application shall be given to such person by the defendant; and the Court, after hearing his objections, if any, may make such order in the matter as it thinks fit.

443. Where the defendant to a suit is a minor, the Court, on being satisfied of the fact of his minority, shall appoint a proper person to be guardian for the suit for such minor, to put in the defence for such minor, and generally to act on his behalf in the conduct of the case.

A guardian for the suit is not a guardian of person or property within the meaning of the Indian Majority Act, 1875, section 3.

444. Every order made in a suit or on any application before the Court, in or by which a minor is in any way concerned or affected, without such minor being represented by a next friend or guardian for the suit, as the case may be, may be discharged, and, if the pleader of the party at whose instance such order was obtained knew, or might reasonably have known, the fact of such minority, with costs to be paid by such pleader.

445. Any person being of sound mind and full age may act as next friend of a minor, provided his interest is not adverse to that of such minor, and he is not a defendant in the suit.

446. If the interest of the next friend of a minor is adverse to that of such minor, or if he is so connected with a defendant whose interest is adverse to that of the minor, as to make it unlikely that the minor's interest will be properly protected by him, or if he does not do his duty, or, pending the suit, ceases to reside within British India, or for any other sufficient cause, application may be made on behalf of the minor or by a defendant for his removal; and the Court (if satisfied of the sufficiency of the cause assigned) may order the next friend to be removed accordingly.

447. Unless otherwise ordered by the Court, a next friend shall not retire at his own request without first procuring a fit person to be put in his place, and giving security for the costs already incurred.

The application for the appointment of a new next friend shall be supported by affidavit showing the fitness of the person proposed, and also that he has no interest adverse to the minor.

448. On the death or removal of the next friend of a minor, further proceedings shall be stayed until the appointment of a next friend in his place.

449. If the pleader of such minor omits, within reasonable time, to take steps to get a new next friend appointed, any person interested in the minor or the matter at issue may apply to the Court for the appointment of one, and the Court may appoint such person as it thinks fit.

450. A minor plaintiff, or a minor not a party to a suit on whose behalf an application is pending, on coming of age must elect whether he will proceed with the suit or application.

451. If he elects to proceed with it, he shall apply for an order discharging the next friend, and for leave to proceed in his own name.

The title of the suit or application shall in such case be corrected so as to read thenceforth thus:

"*A. B.*, late a minor, by *C. D.*, his next friend, but now of full age."

452. If he elects to abandon the suit or application, he shall, if a sole plaintiff, or sole applicant, apply for an order to dismiss the suit or application on repayment of the costs incurred by the defendant or respondent, or which may have been paid by his next friend.

453. Any application under section 451 or section 452 may be made *ex parte*; and it must be proved by affidavit that the late minor has attained his full age.

454. A minor co-plaintiff on coming of age and desiring to repudiate the suit must apply to have his name struck out as co-plaintiff; and the Court, if it finds that he is not a necessary party, shall dismiss him from the suit on such terms as to costs or otherwise as it thinks fit.

Notice of the application shall be served on the next friend, as well as on the defendant; and it must be proved by affidavit that the late minor has attained his full age.

The costs of all parties of such application, and of all or any proceedings theretofore had in the suit, shall be paid by such persons as the Court directs.

If the late minor be a necessary party to the suit the Court may direct him to be made a defendant.

455. If any minor on attaining majority can prove to the satisfaction of the Court that a suit instituted in his name by a next friend was unreasonable

or improper, he may, if a sole plaintiff, apply to have the suit dismissed.

Notice of the application shall be served on all the parties concerned: and the Court, upon being satisfied of such unreasonableness or impropriety, may grant the application, and order the next friend to pay the costs of all parties in respect of the application and of anything done in the suit.

456. An order for the appointment of a guardian for the suit may be obtained upon application in the name and on behalf of the minor or by the plaintiff. Such application must be supported by an affidavit verifying the fact that the proposed guardian has no interest in the matters in question in the suit adverse to that of the minor, and that he is a fit person to be so appointed.

Where there is no other person fit and willing to act as guardian for the suit, the Court may appoint any of its officers to be such guardian: Provided that he has no interest adverse to that of the minor.

457. A co-defendant of sound mind and of full age may be appointed guardian for the suit, if he has no interest adverse to that of the minor; but neither a plaintiff, nor a married woman, can be so appointed.

458. If the guardian for the suit of a minor defendant does not do his duty, or if other sufficient ground be made to appear, the Court may remove him, and may order him to pay such costs as may have been occasioned to any party by his breach of duty.

459. If the guardian for the suit dies pending such suit, or is removed by the Court, the Court shall appoint a new guardian in his place.

460. When the enforcement of a decree is applied for against the heir or representative, being a minor, of a deceased party, a guardian for the suit of such minor shall be appointed by the Court, and the decree-holder shall serve on such guardian notice of such application.

461. No sum of money or other thing shall be received or taken by a next friend or guardian for the suit on behalf of a minor, at any time before decree or order, unless he has first obtained the leave of the Court, and given security to its satisfaction that such money or other thing shall be duly accounted for to, and held for the benefit of, such minor.

462. No next friend or guardian for the suit shall, without the leave of the Court, enter into any agreement or compromise on behalf of a minor, with reference to the suit in which he acts as next friend or guardian.

Next friend or guardian *ad litem* not to compromise without leave of Court.

Any such agreement or compromise entered into without the leave of the Court shall be voidable against all parties other than the minor.

Compromise without leave voidable.

463. The provisions contained in sections 440 to 462 (both inclusive) shall, *mutatis mutandis*, apply in the case of persons of unsound mind, adjudged to be so under Act No. XXXV of 1858, or under any other law for the time being in force.

464. Nothing in sections 442 to 462 applies to any minor or person of unsound mind, for whose person or property a guardian or manager has been appointed by the Court of Wards or by the Civil Court under any local law.

Wards of Court.

CHAPTER XXXII.

SUITS BY AND AGAINST MILITARY MEN.

465. When any officer or soldier actually serving the Government in a military capacity is a party to a suit, and cannot obtain leave of absence for the purpose of prosecuting or defending the suit in person, he may authorize any person to sue or defend in his stead.

Officers or soldiers who cannot obtain leave may authorize any person to sue or defend for them.

The authority shall be in writing and shall be signed by the officer or soldier in the presence of (a) his commanding officer, or the next subordinate officer, if the party be himself the commanding officer, or (b) where the officer or soldier is serving in military staff employment, the head or other superior officer of the office in which he is employed. Such commanding or other officer shall countersign the authority, which shall be filed in court.

When so filed, the countersignature shall be sufficient proof that the authority was duly executed, and that the officer or soldier by whom it was granted could not obtain leave of absence for the purpose of prosecuting or defending the suit in person.

Explanation.—In this chapter the expression 'commanding officer' means the officer in actual command for the time being of any regiment, corps, detachment or depot to which the officer or soldier belongs.

466. Any person authorized by an officer or a soldier to prosecute or defend a suit in his stead may prosecute or defend it in person in the same manner as the officer or soldier could

Person so authorized may act personally or appoint pleader.

do if present; or he may appoint a pleader to prosecute or defend the suit on behalf of such officer or soldier.

467. Processes served upon any person authorized by an officer or a soldier, as in section 465, or upon any pleader appointed as aforesaid by such person to act for, or on behalf of, such officer or soldier, shall be as effectual as if they had been served on the party in person or on his pleader.

468. When an officer or a soldier is a defendant, the Court shall send a copy of the summons to his commanding officer for the purpose of being served on him.

Service on officers and soldiers.

The officer to whom such copy is sent, after causing it to be served on the person to whom it is addressed, if practicable, shall return it to the Court with the written acknowledgment of such person endorsed thereon.

If from any cause the copy cannot be so served, it shall be returned to the Court by which it was sent, with information of the cause which has prevented the service.

469. If, in the execution of a decree, a warrant of arrest or other process is to be executed within the limits of a cantonment, garrison, military station or military bazar, the officer charged with the execution of such warrant or other process shall deliver the same to the commanding officer.

The commanding officer shall back the warrant or other process with his signature, and, in the case of a warrant of arrest, if the person named therein is within the limits of his command, shall cause him to be arrested and delivered to the officer so charged.

Execution of warrant of arrest or other process is to be executed within the limits of a cantonment, garrison, military station or military bazar, the officer charged with the execution of such warrant or other process shall deliver the same to the commanding officer.

The commanding officer shall back the warrant or other process with his signature, and, in the case of a warrant of arrest, if the person named therein is within the limits of his command, shall cause him to be arrested and delivered to the officer so charged.

CHAPTER XXXIII.

INTERPLEADER.

470. When two or more persons claim adversely to one another the same payment or property from another person, whose only interest therein is that of a mere stakeholder and who is ready to render it to the right owner, such stakeholder may institute a suit of interpleader against all the claimants for the purpose of obtaining a decision as to whom the payment or property should be made or delivered, and of obtaining indemnity for himself.

When interpleader suit may be instituted.

Provided that if any suit is pending in which the rights of all parties can properly be decided, the stakeholder shall not institute a suit of interpleader.

471. In every suit of interpleader the plaintiff must, in addition to the other statements necessary for

Plaint in such suit.

plaints, state—

(a) that the plaintiff has no interest in the thing claimed otherwise than as a mere stakeholder ;
(b) the claims made by the defendants severally ;
and

(c) that there is no collusion between the plaintiff and any of the defendants.

472. When the thing claimed is capable of being paid into court or placed in the custody of the Court, the plaintiff must so pay or place it before he can be entitled to any order in the suit.

Procedure at first hearing. 473. At the first hearing the Court may—

(a) declare that the plaintiff is discharged from all liability to the defendants in respect of the thing claimed, award him his costs, and dismiss him from the suit ;

or, if it thinks that justice or convenience so require,

(b) retain all parties until the final disposal of the suit ;

and, if it finds that the admissions of the parties or other evidence enable it,

(c) adjudicate the title to the thing claimed : or else it may

(d) direct the defendants to interplead one another by filing statements and entering into evidence for the purpose of bringing their respective claims before the Court, and shall adjudicate on such claims.

474. Nothing in this chapter shall be taken to

When agents and enable agents to sue their tenants may institute in— principals, or tenants to sue their landlords, for the purpose of compelling them to interplead with any persons other than persons making claim through such principals or landlords.

Illustrations.

(a) A deposits a box of jewels with B as his agent. C alleges that the jewels were wrongfully obtained from him by A, and claims them from B. B cannot institute an interpleader-suit against A and C.

(b) A deposits a box of jewels with B as his agent. He then writes to C for the purpose of making the jewels a security for a debt due from himself to C. A afterwards alleges that C's debt is satisfied, and C alleges the contrary. Both claim the jewels from B. B may institute an interpleader suit against A and C.

475. When the suit is properly instituted, the Court may provide for the plaintiff's costs by giving him a charge on the thing claimed or in some other effectual way.

476. If any of the defendants in an interpleader-suit is actually suing the stakeholder in respect of the subject of such suit, the Court in which the suit against the stakeholder is pending shall, on being duly informed by the Court which passed the decree in the interpleader-suit in favour of the stakeholder, that such decree has

been passed, stay the proceedings as against him ; and his costs in the suit so stayed may be provided for in such suit ; but if, and so far as, they are not provided for in that suit, they may be added to his costs incurred in the interpleader-suit.

Costs.

PART IV.

PROVISIONAL REMEDIES.

CHAPTER XXXIV.

OF ARREST AND ATTACHMENT BEFORE JUDGMENT.

A.—Arrest before Judgment.

477. If at any stage of any suit, other than a suit for the possession of immoveable property, the plaintiff satisfies the Court by affidavit or otherwise—

that the defendant, with intent to avoid or delay the plaintiff, or to avoid any process of the Court, or to obstruct or delay the execution of any decree that may be passed against him,

(a) has absconded or left the jurisdiction of the Court, or

(b) is about to abscond or to leave the jurisdiction of the Court, or

(c) has disposed of or removed from the jurisdiction of the Court his property or any part thereof, or

that the defendant is about to leave British India under circumstances affording reasonable probability that the plaintiff will or may thereby be obstructed or delayed in the execution of any decree that may be passed against the defendant in the suit,

the plaintiff may apply to the Court that security be taken for the appearance of the defendant to answer any decree that may be passed against him in the suit.

478. If the Court, after examining the applicant, and making such further investigation as it thinks fit, is satisfied—

that the defendant, with any such intent as aforesaid,

(a) has absconded or left the jurisdiction of the Court, or

(b) is about to abscond or to leave the jurisdiction of the Court, or

(c) has disposed of or removed from the jurisdiction of the Court his property or any part thereof, or

that the defendant is about to leave British India under the circumstances last aforesaid,

the Court may issue a warrant to arrest the defendant and bring him before the Court to show cause why he should not give security for his appearance.

479. If the defendant fail to show such cause, the Court shall order him either to deposit in court money or other property sufficient to answer the claim against him, or to give security for his appearance at any time when called upon while the suit is pending, and until execution or satisfaction of any decree that may be passed against him in the suit.

The surety shall bind himself, in default of such appearance, to pay any sum of money which the defendant may be ordered to pay in the suit.

480. The surety for the appearance of the defendant may at any time apply to the Court in which he became such surety to be discharged from his obligation.

On such application being made, the Court shall summon the defendant to appear, or, if it thinks fit, may issue a warrant for his arrest in the first instance.

On the appearance of the defendant pursuant to the summons or warrant, or on his voluntary surrender, the Court shall direct the surety to be discharged from his obligation, and shall call upon the defendant to find fresh security.

481. If the defendant fail to comply with any order under section 479 or section 480, the Court may commit him to jail until the decision of the suit, or, if judgment be given against the defendant, until the execution of the decree: Provided that no person shall be imprisoned under this section in any case for a longer period than six months, nor for a longer period than six weeks when the amount or value of the subject-matter of the suit does not exceed fifty rupees:

Provided that no person shall be detained in prison under this section after he has complied with such order.

482. The provisions of section 339 as to allowances payable for the subsistence of judgment-debtors shall apply to all defendants arrested under this chapter.

B.—Attachment before Judgment.

483. If at any stage of any suit the plaintiff satisfies the Court by affidavit or otherwise that the defendant, with intent to obstruct or delay the execution of any decree that may be passed against him,

(a) is about to dispose of the whole or any part of his property, or to remove the same from the jurisdiction of the Court in which the suit is pending, or

(b) has quitted the jurisdiction of the Court, leaving therein property belonging to him,

the plaintiff may apply to the Court to call upon the defendant to furnish security to satisfy any decree that may be passed against him in such suit and, on his failing to give such security, to direct that any portion of his property within the jurisdiction of the Court shall be attached until the further order of the Court.

The application shall, unless the Court otherwise directs, specify the property required to be attached and the estimated value thereof.

484. If the Court, after examining the applicant and making any further investigation which it thinks fit, is satisfied that the defendant is about to dispose of or remove his property, with intent to obstruct or delay the execution of any decree that may be passed against him in the suit, or that he has with such intent quitted the jurisdiction of the Court, leaving therein property belonging to him, the Court may require him, within a time to be fixed by the Court, either to furnish security in such sum as may be specified in the order, to produce and place at the disposal of the Court, when required, the said property or the value of the sum, or such portion thereof as may be sufficient to satisfy the decree, or to appear and show cause why he should not furnish security.

The Court may also in the order direct the conditional attachment of the whole or any portion of the property specified in the application.

485. If the defendant fail to show cause why he should not furnish security, or fail to furnish the security required, within the time fixed by the Court, the Court may order that the property specified in the application, or such portion thereof as appears sufficient to satisfy any decree which may be passed in the suit, shall be attached.

If the defendant show such cause or furnish the required security, and the property specified in the application or any portion of it has been attached, the Court shall order the attachment to be withdrawn.

486. The attachment shall be made in the manner herein provided for the attachment of property in execution of a decree for money.

487. If any claim be preferred to the property attached before judgment, such claim shall be investigated in the manner hereinbefore provided for the investigation of claims to property attached in execution of a decree for money.

488. When an order of attachment before judgment is passed, the Court which passed the order shall remove the attachment

whenever the defendant furnishes the security required, together with security for the costs of the attachment, or when the suit is dismissed.

489. Attachment before judgment shall not affect the rights, existing prior to the attachment, of persons not parties to the suit, nor bar any person holding a decree against the defendant from applying for the sale of the property under attachment in execution of such decree.

490. Where property is under attachment by virtue of the provisions of this chapter, and a decree is given in favour of the plaintiff, it shall not be necessary to re-attach the property in execution of such decree.

C.—Compensation for improper Arrests or Attachments.

491. If in any suit in which an arrest or attachment has been effected, it appears to the Court that such arrest or attachment was applied for on insufficient grounds,

or if the suit of the plaintiff fails, and it appears to the Court that there was no probable ground for instituting the suit,

the Court may, on the application of the defendant, award against the plaintiff in its decree such amount, not exceeding one thousand rupees, as it deems a reasonable compensation to the defendant for the expense or injury caused to him by the arrest or attachment:

Provided that the Court shall not award under this section a larger amount than it might decree in a suit for compensation.

An award under this section shall bar any suit for compensation in respect of such arrest or attachment.

CHAPTER XXXV.

OF TEMPORARY INJUNCTIONS AND INTERLOCUTORY ORDERS.

A.—Temporary Injunctions.

492. If in any suit it is proved by affidavit or otherwise—

(a) that any property in dispute in a suit is in danger of being wasted, damaged or alienated by any party to the suit, or wrongfully sold in execution of a decree, or

(b) that the defendant threatens, or is about, to remove or dispose of his property with intent to defraud his creditors,

the Court may by order grant a temporary injunction to restrain such act, or give such other

order for the purpose of staying and preventing the wasting, damaging, alienation, sale, removal or disposition of the property as the Court thinks fit, or refuse such injunction or other order.

493. In any suit for restraining the defendant from committing a breach of contract or other injury, whether compensation be claimed in the suit or not, the plaintiff may, at any time after the commencement of the suit, and either before or after judgment, apply to the Court for a temporary injunction to restrain the defendant from committing the breach of contract or injury complained of, or any breach of contract or injury of a like kind arising out of the same contract or relating to the same property or right.

The Court may by order grant such injunction on such terms as to the duration of the injunction, keeping an account, giving security, or otherwise, as the Court thinks fit, or refuse the same.

In case of disobedience, an injunction granted under this section or section 492 may be enforced by the imprisonment of the defendant for a term not exceeding six months, or the attachment of his property, or both.

No attachment under this section shall remain in force for more than one year, at the end of which time, if the defendant has not obeyed the injunction, the property attached may be sold, and out of the proceeds the Court may award to the plaintiff such compensation as it thinks fit, and may pay the balance, if any, to the defendant.

494. The Court shall in all cases, except where it appears that the object of the injunction, Court to direct notice to opposite party. he defended by the delay, before granting an injunction, direct notice of the application for the same to be given to the opposite party.

495. An injunction directed to a Corporation or public Company is binding not only on the Corporation or Company itself, but also on all members and officers of the Corporation or Company whose personal action it seeks to restrain.

496. Any order for an injunction may be discharged, or varied, or set aside by the Court, on application made thereto by any party dissatisfied with such order.

497. If it appears to the Court that an injunction which it has granted was applied for on insufficient grounds, or

if, after the issue of the injunction, the suit is dismissed or judgment is given against the plaintiff by default or otherwise, and it appears to the Court that there was no probable ground for instituting the suit,

the Court may, on the application of the defendant, award against the plaintiff in its decree such sum, not exceeding one thousand rupees, as it

deems a reasonable compensation to the defendant for the expense or injury caused to him by the issue of the injunction :

Provided that the Court shall not award under this section a larger amount than it might decree in a suit for compensation.

An award under this section shall bar any suit for compensation in respect of the issue of the injunction.

B.—Interlocutory Orders.

498. The Court may, on the application of any party to a suit, order the sale, by any person named in such order, and in such manner and on such terms as it thinks fit, of any moveable property, being the subject of such suit, which is subject to speedy and natural decay.

499. The Court may, on the application of any party to a suit, and on such terms as it thinks fit, (a) make an order for the detention, preservation or inspection of any property being the subject of such suit ;

(b) for all or any of the purposes aforesaid authorize any person to enter upon or into any land or building in the possession of any other party to such suit, and

(c) for all or any of the purposes aforesaid, authorize any samples to be taken, or any observation to be made or experiment to be tried, which may seem necessary or expedient for the purpose of obtaining full information or evidence.

The provisions hereinbefore contained as to execution of process shall apply, *mutatis mutandis*, to persons authorized to enter under this section.

500. An application by the plaintiff for an order under section 498 or section 499 may be made after notice in writing to the defendant at any time after service of the summons.

An application by the defendant for a like order may be made after notice in writing to the plaintiff, and at any time after the applicant has appeared.

501. When land paying revenue to Government, or a tenure liable to sale, is the subject of a suit, if the party in possession of such land or tenure neglects to pay the Government-revenue, or the rent due to the proprietor of the tenure, as the case may be, and such land or tenure is consequently ordered to be sold, any other party to the suit claiming to have an interest in such land or tenure may upon payment of the revenue or rent due previously to the sale (and with or without security at the discretion of the Court), be put in immediate possession of the land or tenure ;

and the Court in its decree may award against the defaulter the amount so paid, with interest thereupon at such rate as the Court thinks fit, or may charge the amount so paid, with interest thereupon at such rate as the Court orders, in any adjustment of accounts which may be directed in the decree passed in the suit.

502. When the subject-matter of a suit is money or some other thing capable of delivery, and any party thereto admits that he holds such money or other thing as a trustee for another party, or that it belongs or is due to another party, the Court may order the same to be deposited in court or delivered to such last-named party, with or without security, subject to the further direction of the Court.

CHAPTER XXXVI.

APPOINTMENT OF RECEIVERS.

503. Whenever it appears to the Court to be necessary for the realization, preservation or better custody or management of any property, moveable or immoveable, the subject of a suit, or under attachment, the Court may by order—

(a) appoint a Receiver of such property, and, if need be,

(b) remove the person in whose possession or custody the property may be from the possession or custody thereof ;

(c) commit the same to the custody or management of such Receiver ; and

(d) grant to such Receiver such fee or commission on the rents and profits of the property by way of remuneration, and all such powers as to bringing and defending suits, and for the realization, management, protection, preservation and improvement of the property, the collection of the rents and profits thereof, the application and disposal of such rents and profits, and the execution of instruments in writing, as the owner himself has, or such of those powers as the Court thinks fit.

Receiver's liabilities. Every Receiver so appointed shall—

(e) give such security (if any) as the Court thinks fit duly to account for what he shall receive in respect of the property ;

(f) pass his accounts at such periods and in such form as the Court directs ;

(g) pay the balance due from him thereon as the Court directs ; and

(h) be responsible for any loss occasioned to the property by his wilful default or gross negligence.

Nothing in this section authorizes the Court to remove from the possession or custody of property under attachment any person whom the parties to the suit, or some or one of them, have or has not a present right so to remove.

504. Where the property is land paying revenue to Government, or land of which the revenue has been assigned or redeemed, and the Court considers that the interests of those concerned will be promoted by the management of the Collector, the Court may appoint the Collector to be Receiver of such property.

505. The powers conferred by this chapter shall be exercised only by High Courts and District Courts: Provided that whenever the Judge of a Court subordinate to a District Court considers it expedient that a Receiver should be appointed in any suit before him, he shall nominate such person as he considers fit for such appointment, and submit such person's name, with the grounds for the nomination, to the District Court, and the District Court shall authorize such Judge to appoint the person so nominated, or pass such other order as it thinks fit.

PART V. OF SPECIAL PROCEEDINGS.

CHAPTER XXXVII.

REFERENCE TO ARBITRATION.

506. If all the parties to a suit desire that any matter in difference between them in the suit be referred to arbitration, they may, at any time before judgment is pronounced, apply, in person or by their respective pleaders specially authorized in writing in this behalf, to the Court for an order of reference.

Every such application shall be in writing and shall state the particular matter sought to be referred.

507. The arbitrator shall be nominated by the parties in such manner as may be agreed upon between them.

If the parties cannot agree with respect to such nomination, or if the person whom they nominate refuses to accept the arbitration and the parties desire that the nomination shall be made by the Court, the Court shall nominate the arbitrator.

508. The Court shall, by order, refer to the arbitrator the matter in difference which he is required to determine, and shall fix such time as it thinks reasonable for the delivery of the award, and specify such time in the order.

When once a matter is referred to arbitration, the Court shall not deal with it in the same suit, except as hereinafter provided.

509. If the reference be to two or more arbitrators, provision shall be made in the order for a difference of opinion among the arbitrators,

- (a) by the appointment of an umpire, or
- (b) by declaring that the decision shall be with the majority, if the major part of the arbitrators agree, or
- (c) by empowering the arbitrators to appoint an umpire, or
- (d) otherwise, as may be agreed between the parties; or, if they cannot agree, as the Court determines.

If an umpire is appointed, the Court shall fix such time as it thinks reasonable for the delivery of his award in case he is required to act.

510. If the arbitrator, or, where there are more arbitrators than one, any of the arbitrators, or the umpire, dies, or refuses, or neglects or becomes incapable to act, or leaves British India under circumstances showing that he will probably not return at an early date, the Court may in its discretion either appoint a new arbitrator or umpire in the place of the person so dying, or refusing, or neglecting, or becoming incapable to act, or leaving British India, or make an order superseding the arbitration, and in such case shall proceed with the suit.

511. Where the arbitrators are empowered by the order of reference to appoint an umpire and fail to do so, any of the parties may serve the arbitrators with a written notice to appoint an umpire; and if, within seven days after such notice has been served, or such further time as the Court may in each case allow, no umpire be appointed, the Court, upon the application of the party who has served such notice as aforesaid, may appoint an umpire.

512. Every arbitrator or umpire appointed under section 509, section 510 or section 511 shall have the like powers as if his name had been inserted in the order of reference.

513. The Court shall issue the same processes to the parties and witnesses whom the arbitrators or umpire desire or desires to examine, as the Court may issue in suits tried before it.

Persons not attending in accordance with such process, or making any other default, or refusing to give their evidence, or guilty of any contempt to the arbitrator or umpire during the investigation of the matters referred, shall be subject to the like disadvantages, penalties and punishments, by order of the Court on the representation of the arbitrator or umpire, as they would incur for the like offences in suits tried before the Court.

514. If, from the want of the necessary evidence or information, or from any other cause, the arbitrators cannot complete the award within the period specified in the order, the Court may, if it thinks fit, either grant a further time, and from time to time enlarge the period for the delivery of the award, or make an order superseding the arbitration, and in such case shall proceed with the suit.

515. When an umpire has been appointed he may enter on the reference in the place of the arbitrators.

(a) if they have allowed the appointed time to expire without making an award, or

(b) when they have delivered to the Court or to the umpire a notice in writing, stating that they cannot agree.

516. When an award in a suit has been made, the persons who made it shall sign it and cause it to be filed in court, together with any depositions and documents which have been taken and proved before them; and notice of the filing shall be given to the parties.

517. Upon any reference by an order of the Court, the arbitrators or umpire may, with the consent of the Court, state the award as to the whole or any part thereof in the form of a special case for the opinion of the Court; and the Court shall deliver its opinion thereon; and such opinion shall be added to and form part of the award.

518. The Court may, by order, modify or correct an award.

(a) where it appears that a part of the award is upon a matter not referred to arbitration, provided such part can be separated from the other part and does not affect the decision on the matter referred, or

(b) where the award is imperfect in form, or contains any obvious error which can be amended without affecting such decision.

519. The Court may also make such order as it thinks fit respecting the costs of the arbitration, if any question arise respecting such costs and the award contain no sufficient provision concerning them.

520. The Court may remit the award or any matter referred to arbitration to the reconsideration of the same arbitrators or umpire, upon such terms as it thinks fit,

(a) where the award has left undetermined any of the matters referred to arbitration, or where it determines any matter not referred to arbitration;

(b) where the award is so indefinite as to be incapable of execution;

(c) where an objection to the legality of the award is apparent upon the face of it.

521. An award remitted under section 520 becomes void on the refusal of the arbitrators or umpire to reconsider it. But no award shall be set aside except on one of the following grounds (namely)—

(a) corruption or misconduct of the arbitrator or umpire;

(b) either party having been guilty of fraudulent concealment of any matter which he ought to have disclosed, or of wilfully misleading or deceiving the arbitrator or umpire;

(c) the award having been made after the issue of an order by the Court superseding the arbitration and restoring the suit;

and no award shall be valid unless made within the period allowed by the Court.

522. If the Court sees no cause to remit the award or any of the matters referred to arbitration for reconsideration in manner aforesaid, and if no application has been made to set aside the award, or if the Court has refused such application,

the Court shall, after the time for making such application has expired, proceed to give judgment according to the award,

or, if the award has been submitted to it in the form of a special case, according to its own opinion on such case.

Upon the judgment so given a decree shall follow, and shall be enforced in manner provided in this Code for the execution of decrees. No appeal shall lie from such decree except in so far as the decree is in excess of, or not in accordance with, the award.

523. When any persons agree in writing that any difference between them shall be referred to the arbitration of any person named in the agreement or to be appointed by any Court having jurisdiction in the matter to which the agreement relates, the parties thereto, or any of them, may apply that the agreement be filed in court.

The application shall be in writing and shall be numbered and registered as a suit between one or more of the parties interested or claiming to be interested as plaintiff or plaintiffs, and the others or other of them as defendants or defendant, if the application have been presented by all the parties, or, if otherwise, between the applicant as plaintiff and the other parties as defendants.

On such application being made, the Court shall direct notice thereof to be given to all the parties to the agreement other than the applicants, requiring such parties to show cause, within the time specified in the notice, why the agreement should not be filed.

If no sufficient cause be shown, the Court may cause the agreement to be filed, and shall make an order of reference thereon, and may also nominate the arbitrator, when he is not named therein and the parties cannot agree as to the nomination.

524. The foregoing provisions of this chapter, so far as they are consistent with any agreement so filed, shall be applicable to all proceedings under an order of reference made by the Court under section 523, and to the award of arbitration and to the enforcement of the decree founded thereupon.

525. When any matter has been referred to arbitration without the intervention of a Court of Justice, and an award has been made thereon, any person interested in the award may apply to the Court of the lowest grade having jurisdiction over the matter to which the award relates, that the award be filed in court.

The application shall be in writing and shall be numbered and registered as a suit between the applicant as plaintiff and the other parties as defendants.

The Court shall direct notice to be given to the parties to the arbitration, other than the applicant, requiring them to show cause, within a time specified, why the award should not be filed.

526. If no ground such as is mentioned or referred to in section 520 or section 521, be shown against the award, the Court shall order it to be filed, and such award shall then take effect as an award made under the provisions of this chapter.

CHAPTER XXXVIII.

OF PROCEEDINGS ON AGREEMENT OF PARTIES.

527. Parties claiming to be interested in the decision of any question of fact or law, may enter into an agreement in writing stating such question in the form of a case for the opinion of the Court, and providing that, upon the finding of the Court with respect to such question,

(a) a sum of money fixed by the parties or to be determined by the Court, shall be paid by one of the parties to the other of them; or

(b) some property, moveable or immoveable, specified in the agreement, shall be delivered by one of the parties to the other of them; or

(c) one or more of the parties shall do, or refrain from doing, some other particular act specified in the agreement.

Every case stated under this section shall be divided into consecutively numbered paragraphs, and shall concisely state such facts and documents as may be necessary to enable the Court to decide the question raised thereby.

528. If the agreement is for the delivery of any property, or for the doing, or the refraining from doing, any particular act, the estimated value of the property to be delivered, or to which the act specified has reference, shall be stated in the agreement.

529. The agreement, if framed in accordance with the rules hereinafter contained, may be filed in the Court which would have jurisdiction to entertain a suit, the amount or value of the subject-matter of which is the same as the amount or value of the subject-matter of the agreement.

The agreement, when so filed, shall be numbered and registered as a suit between one or more of the parties claiming to be interested, as plaintiff or plaintiffs, and the other or others of them as defendant or defendants; and notice shall be given to all the parties to the agreement, other than the party or parties by whom it was presented.

530. When the agreement has been filed, the parties to it shall be subject to the jurisdiction of the Court, and shall be bound by the statements contained therein.

531. The case shall be set down for hearing and disposal as a suit instituted under Chapter V, the provisions of which shall apply to such suit so far as the same are applicable.

If the Court is satisfied, after an examination of the parties, or after taking such evidence as it thinks fit,

(a) that the agreement was duly executed by them, and

(b) that they have a *bona fide* interest in the question stated therein, and

(c) that the same is fit to be decided, it shall proceed to pronounce judgment thereon, in the same way as in an ordinary suit, and upon the judgment so given a decree shall follow and shall be enforced in the manner provided in this Code for the execution of decrees.

CHAPTER XXXIX.

OF SUMMARY PROCEDURE ON NEGOTIABLE INSTRUMENTS.

532. In any Court to which this section applies, all suits upon bills of exchange, hundis or promissory notes may, in case the plain-

tiff desires to proceed under this chapter, be instituted by presenting a plaint in the form prescribed by this Code; but the summons shall be in the form contained in the fourth schedule hereto annexed, No. 172, or in such other form as the High Court may from time to time prescribe.

In any case in which the plaintiff and summons are in such forms respectively, the defendant shall not appear or defend the suit unless he obtains leave from a Judge as hereinafter mentioned so to appear and defend;

and in default of his obtaining such leave or of appearance and defence in pursuance thereof, the plaintiff shall be entitled to a decree for any sum not exceeding the sum mentioned in the summons, together with interest at the rate specified (if any) to the date of the decree, and a sum for costs to be fixed by a rule of the High Court, unless the plaintiff claims more than such fixed sum, in which case the costs shall be ascertained in the ordinary way, and such decree may be enforced forthwith.

The defendant shall not be required to pay into court the sum mentioned in the summons, or to give security therefor, unless the Court thinks his defence not to be *prima facie* sustainable, or feels reasonable doubt as to its good faith.

Explanation.—This section is not confined to cases in which the bill, hundi or note sued upon, together with mere lapse of time, is sufficient to establish a *prima facie* right to recover.

533. The Court shall, upon application by the defendant, give leave to appear and to defend the suit, upon the defendant paying into court the sum mentioned in the summons, or upon affidavits satisfactory to the Court, which disclose a defence or such facts as would make it incumbent on the holder to prove consideration, or such other facts as the Court may deem sufficient to support the application, and on such terms as to security, framing and recording issues, or otherwise, as the Court thinks fit.

534. After decree, the Court may, under special circumstances, set aside the decree, and if necessary stay or set aside execution, and may give leave to appear to the summons and to defend the suit, if it seem reasonable to the Court so to do, and on such terms as the Court thinks fit.

535. In any proceeding under this chapter the Court may order the bill, hundi or note on which the suit is founded to be forthwith deposited with an officer of the Court, and may further order that all proceedings shall be stayed until the plaintiff gives security for the costs thereof.

536. The holder of every dishonoured bill of exchange or promissory note shall have the same remedies for the recovery of the expenses incurred in noting the same for non-acceptance or non-payment, or otherwise, by reason of such dishonour, as he has under this chapter for the recovery of the amount of such bill or note.

537. Except as provided by sections 532 to 536 (both inclusive), the procedure in suits under this chapter shall be the same as the procedure in suits instituted under Chapter V.

538. Sections 532 to 537 (both inclusive) apply only to—

- (a) the High Courts of Judicature at Port William, Madras and Bombay;
- (b) the Court of the Recorder of Rangoon;
- (c) the Courts of Small Causes in Calcutta, Madras and Bombay;
- (d) the Court of the Judge of Karachi; and
- (e) any other Court having ordinary original civil jurisdiction to which the Local Government may, by notification in the official Gazette, apply them.

In case of such application the Local Government may direct by whom any of the powers and duties incident to the provisions so applied shall be exercised and performed, and make any rules which it thinks requisite for carrying into operation the provisions so applied.

Within one month after such notification has been published, such provisions shall apply accordingly, and the rules so made shall have the force of law.

The Local Government may from time to time alter or cancel any such notification.

CHAPTER XL.

OF SUITS RELATING TO PUBLIC CHARITIES.

539. In case of any alleged breach of any express or constructive trust created for public charitable or religious purposes, or whenever the direction of the Court is deemed necessary for the administration of any such trust, the Advocate General acting *ex officio*, or two or more persons having a direct interest in the trust and having obtained the consent in writing of the Advocate General, may institute a suit in the High Court or the District Court within the local limits of whose civil jurisdiction the whole or any part of the subject-matter of the trust is situate, to obtain a decree—

- (a) appointing new trustees under the trust;
- (b) vesting any property in the trustees under the trust;
- (c) declaring the proportions in which its objects are entitled;

(d) authorizing the whole or any part of its property to be let, sold, mortgaged or exchanged;

(e) settling a scheme for its management; or granting such further or other relief as the nature of the case may require.

The powers conferred by this section on the Advocate General may, outside the Presidency-towns, be, with the previous sanction of the Local Government, exercised also by the Collector or by such officer as the Local Government may appoint in this behalf.

Act No. X of 1840, section two, is hereby repealed.

PART VI. OF APPEALS.

CHAPTER XLI.

OF APPEALS FROM ORIGINAL DECREES.

540. Unless otherwise expressly provided by this Code or by any other law for the time being in force, an appeal shall lie from the decrees, or from any part of the decrees, of the Courts exercising original jurisdiction to the Courts authorized to hear appeals from the decisions of those Courts.

541. The appeal shall be made in the form of a memorandum in writing presented by the appellant, and shall be accompanied by a copy of the decree appealed against and (unless the Appellate Court dispenses therewith) of the judgment on which it is founded.

Such memorandum shall set forth, concisely and under distinct heads, the grounds of objection to the decree appealed against, without any argument or narrative; and such grounds shall be numbered consecutively.

542. The appellant shall not, without the leave of the Court, urge or be heard in support of any other ground of objection, but the Court in deciding the appeal shall not be confined to the grounds set forth by the appellant:

Provided that the Court shall not rest its decision on any ground not set forth by the appellant, unless the respondent has had sufficient opportunity of contesting the case on that ground.

543. If the memorandum of appeal be not drawn up in the manner hereinbefore prescribed, it may be rejected, or be returned to the appellant for the purpose of being amended within a time to be fixed by the Court or be amended then and there.

When the Court rejects under this section any memorandum, it shall record the reasons for such rejection.

When a memorandum of appeal is amended under this section, the Judge, or such officer as he appoints in this behalf, shall attest the amendment by his signature.

544. Where there are more plaintiffs or more defendants than one in a suit, and the decree appealed against proceeds on any ground common to all the plaintiffs or to all the defendants, any one of the plaintiffs or of the defendants may appeal against the whole decree, and thereupon the Appellate Court may reverse or modify the decree in favour of all the plaintiffs or defendants, as the case may be.

Of staying and executing Decrees under Appeal.

545. Execution of a decree shall not be stayed by reason only of an appeal having been preferred against the decree; but the appellate Court may for sufficient cause order the execution to be stayed:

If an application be made for stay of execution of an appealable decree before the expiry of the time allowed for appealing therefrom, the Court which passed the decree may for sufficient cause order the execution to be stayed:

Provided that no order shall be made under this section unless the Court making it is satisfied—

(a) that substantial loss may result to the party applying for stay of execution unless the order is made;

(b) that the application has been made without unreasonable delay; and

(c) that security has been given by the applicant for the due performance of such decree or order as may ultimately be binding upon him.

546. If an order is made for the execution of a decree against which an appeal is pending, the Court which passed the decree shall, on sufficient cause being shown by the appellant, require security to be given for the restitution of any property which may be taken in execution of the decree, or for the payment of the value of such property, and for the due performance of the decree or order of the Appellate Court,

or the Appellate Court may for like cause direct the Court which passed the decree to take such security.

And when an order has been passed for the sale of immoveable property in execution of a decree for money, and an appeal is pending against such decree, the sale shall on the application of the

judgment-debtor be stayed until the appeal is disposed of, on such terms as to giving security or otherwise as the Court which passed the decree thinks fit.

547. No such security as is mentioned in sections 545 and 546 shall be required from the Secretary of State for India in Council, or (when Government has undertaken the defence of the suit) from any public officer sued in respect of an act alleged to be done by him in his official capacity.

Of Procedure in Appeal from Decrees.

548. When a memorandum of appeal is admitted, the Appellate Court or the proper officer of that Court shall endorse thereon the date of presentation, and shall register the appeal in a book to be kept for the purpose.

Such book shall be called the Register of Appeals.

549. The Appellate Court may at its discretion, either before the respondent is called upon to appear and answer or afterwards on the application of the respondent, demand from the appellant security for the costs of the appeal, or of the original suit, or of both:

Provided that the Court shall demand such security in all cases in which the appellant is residing out of British India, and is not possessed of any sufficient immoveable property within British India independent of the property (if any) to which the appeal relates.

If such security be not furnished within such time as the Court orders, the Court shall reject the appeal.

550. When the memorandum of appeal is registered, the Appellate Court shall send notice of the appeal to the Court against whose decree the appeal is made.

If the appeal be from a Court the records of which are not deposited in the Appellate Court, the Court receiving such notice shall send with all practicable despatch all material papers in the suit, or such papers as may be specially called for by the Appellate Court.

Either party may apply in writing to the Court against whose decree the appeal is made, specifying any of such papers in such Court of which he requires copies to be made; and copies of such papers shall be made at the expense of the applicant, and shall be deposited accordingly.

551. The Appellate Court may, if it thinks fit, after fixing a time for hearing the appellant or his pleader, and hearing him accordingly if he appears at such time, confirm the decision of the Court against whose decree the appeal is made, without sending notice of the appeal to such Court and without serving notice on the respondent or his pleader; but in such case the confirmation shall be notified to the same Court.

552. The Appellate Court, unless where it confirms, under section 551, the decision of the lower Court, shall fix a day for hearing the appeal.

Such day shall be fixed with reference to the current business of the Court, the place of residence of the respondent, and the time necessary for the service of the notice of appeal, so as to allow the respondent sufficient time to appear and answer the appeal on such day.

553. Notice of the day so fixed shall be stuck up in the appellate court-house, and a like notice shall be sent by the Appellate Court to the Court against whose decree the appeal is made, and shall be served on the respondent or on his pleader in the Appellate Court in the manner provided in Chapter VI for the service on a defendant of a summons to appear and answer; and all rules applicable to such summons and to proceedings with reference to the service thereof, shall apply to the service of such notice.

Instead of sending the notice to the Court against whose decree the appeal is made, the Appellate Court may itself cause notice to be served on the respondent or his pleader under the rules above referred to.

554. The notice to the respondent shall declare that, if he does not appear in the Appellate Court on the day so fixed, the appeal will be heard *ex parte*.

Procedure on Hearing.

555. On the day so fixed, or on any other day to which the hearing may be adjourned, the appellant shall be heard in support of the appeal. The Court shall then, if it does not dismiss the appeal at once, hear the respondent against the appeal, and in such case the appellant shall be entitled to reply.

556. If on the day so fixed, or any other day to which the hearing may be adjourned, the appellant does not attend in person or by his pleader, the appeal shall be dismissed for default.

If the appellant attends and the respondent does not attend, the appeal shall be heard *ex parte* in his absence.

Hearing appeal *ex parte*.

557. If on the day so fixed, or any other day to which the hearing may be adjourned, it is found that the notice to the respondent has not been served in consequence of the failure of the appellant to deposit, within the period fixed by the Court, the sum required to defray the cost of issuing the notice, the Court may order that the appeal be dismissed:

Provided that no such order shall be passed, although the notice has not been served upon the respondent, if on the day fixed for hearing the appeal the respondent appears in person or by a pleader, or by a duly authorized agent.

558. If an appeal be dismissed under section 556 or section 557, the appellant may apply to the Appellate Court for the re-admission of the appeal; and if it be proved that he was prevented by any sufficient cause from attending when the appeal was called on for hearing or from depositing the sum so required, the Court may re-admit the appeal on such terms as to costs or otherwise as the Court thinks fit to impose upon him.

559. If it appear to the Court at the hearing that any person who was a party to the suit in the Court against whose decree the appeal is made, but who has not been made a party to the appeal, is interested in the result of the appeal, the Court may adjourn the hearing to a future day to be fixed by the Court, and direct that such person be made a respondent.

560. When an appeal is heard *ex parte* in the absence of the respondent, and judgment is given against him, he may apply to the Appellate Court to re-hear the appeal; and if he satisfies the Court that the notice was not duly served, or that he was prevented by sufficient cause from attending when the appeal was called on for hearing, the Court may re-hear the appeal on such terms as to costs or otherwise as the Court thinks fit to impose upon him.

561. Any respondent, though he may not have appealed against any part of the decree, may upon the hearing not only support the decree on any of the grounds decided against him in the Court below, but take any objection to the decree which he could have taken by way of appeal, provided he has filed a notice of such objection not less than seven days before the date fixed for the hearing of the appeal.

Such objection shall be in the form of a memorandum, and the provisions of section 541, so far as they relate to the form and contents of the memorandum of appeal, shall apply thereto.

Form of notice, and provisions applicable thereto.

562. If the Court against whose decree the appeal is made has disposed of the suit upon a preliminary point so as to exclude any evidence of fact which appears to the Appellate Court essential to the determination of the rights of the parties, and the decree upon such preliminary point is reversed in appeal, the appellate Court may, if it thinks fit, by order remand the case, together with a copy of the order in appeal, to the Court against whose decree the appeal is made, with directions to re-admit the suit under its original number in the register and proceed to investigate the suit on the merits.

The Appellate Court may, if it thinks fit, direct what issue or issues shall be tried in any case so remanded.

563. When a case is remanded with directions to take any evidence so excluded, the Court to which the case is remanded shall not take any other evidence in the case, except evidence tendered to contradict the evidence so taken.

564. The Appellate Court shall not remand a case for a second decision, except as provided in section 562.

565. When the evidence upon the record is sufficient to enable the Appellate Court to pronounce judgment, the Appellate Court shall, after resettling the issues, if necessary, finally determine the case, notwithstanding that the judgment of the Court against whose decree the appeal is made has proceeded wholly upon some ground other than that on which the Appellate Court proceeds.

566. If the Court against whose decree the appeal is made has omitted to frame or try any issue, or to determine any question of fact, which appears to the Appellate Court essential to the right decision of the suit upon the merits, and the evidence upon the record is not sufficient to enable the Appellate Court to determine such issue or question, the Appellate Court may frame issues for trial, and may refer the same for trial to the Court against whose decree the appeal is made, and in such case shall direct such Court to take the additional evidence required,

and such Court shall proceed to try such issues, and shall return to the Appellate Court its finding thereon together with the evidence.

567. Such finding and evidence shall become part of the record in the suit; and either party may, within a time to be fixed by

Finding and evidence to be put on record. Objections to finding.

the Appellate Court, present a memorandum of objections to the finding.

After the expiration of the period fixed for presenting such memorandum, the Appellate Court shall proceed to determine the appeal.

568. The parties to an appeal shall not be entitled to produce additional evidence, whether oral or documentary, in the Appellate Court. But if

(a) the Court against whose decree the appeal is made refuses to admit evidence which ought to have been admitted, or

(b) the Appellate Court requires any document to be produced for any witness to be examined to enable it to pronounce judgment; or for any other substantial cause,

the Appellate Court may allow such evidence to be produced, or document to be received, or witness to be examined.

Whenever additional evidence is admitted by an Appellate Court, the Court shall record on its proceedings the reason for such admission.

569. Whenever additional evidence is allowed to be received, the Appellate Court may either take such evidence, or direct the Court against whose decree the appeal is made, or any other subordinate Court, to take such evidence and to send it when taken to the Appellate Court.

570. In all cases where additional evidence is directed or allowed to be taken, the Appellate Court shall specify the points to which the evidence is to be confined, and record on its proceedings the points so specified.

Of the Judgment in Appeal.

571. The Appellate Court, after hearing the parties or their pleaders and referring to any part of the proceedings, whether on appeal or in the Court against whose decree the appeal is made, to which reference may be considered necessary, shall pronounce judgment in open Court, either at once or on some future day, of which notice shall be given to the parties or their pleaders.

572. The judgment shall be written in English; provided that if English is not the mother-tongue of the Judge, and he is not able to write an intelligible judgment in English, the judgment shall be written in his mother-tongue or in the language of the Court.

573. When the language in which the judgment is written is not the language of the Court, the judgment shall, if any party so require, be translated into such language, and the translation, after it has been ascertained to be

correct, shall be signed by the Judge or such officer as he appoints in this behalf.

574. The judgment of the Appellate Court shall state—

(a) the points for determination;

(b) the decision thereupon;

(c) the reasons for the decision; and,

(d) when the decree appealed against is reversed or varied, the relief to which the appellant is entitled,

and shall at the time that it is pronounced be signed and dated by the

Date and signature. Judge or by the Judges concurring therein.

575. When the appeal is heard by a Bench of two or more Judges, the appeal shall be decided in accordance with the opinion of such Judges or of the majority (if any) of such Judges.

If there be no such majority which concurs in a judgment varying or reversing the decree appealed against, such decree shall be affirmed:

Provided that if the Bench hearing the Appeal is composed of two Judges belonging to a Court consisting of more than two Judges, and the Judges composing the Bench differ in opinion on a point of law, the appeal may be referred to one or more of the other Judges of the same Court, and shall be decided according to the opinion of the majority (if any) of all the Judges who have heard the appeal, including those who first heard it.

When there is no such majority which concurs in a judgment varying or reversing the decree appealed against, such decree shall be affirmed.

The High Court may from time to time make rules consistent with this Code to regulate references under this section.

576. When the appeal is heard by more Judges than one, any Judge dissenting from the judgment of the Court shall state in writing the decision or order which he thinks should be passed on the appeal, and he may state his reasons for the same.

577. The judgment may be for confirming, varying or reversing the decree against which the appeal is made, or, if the parties to the appeal agree as to the form which the decree in appeal shall take, or as to the order to be passed in appeal, the Appellate Court may pass a decree or order accordingly.

578. No decree shall be reversed or substantially varied, nor shall any case be remanded, in appeal, on account of any error, defect or irregularity, whether in the decision or in any order passed in the suit, or otherwise, not affecting the merits of the case or the jurisdiction of the Court.

Of the Decree in Appeal.

579. The decree of the Appellate Court shall bear date the day on which the judgment was pronounced.

The decree shall contain the number of the appeal, and the memorandum of appeal, including the names and description of the appellant and respondent, and shall specify clearly the relief granted or other determination of the appeal.

The decree shall also state the amount of costs incurred in the appeal, and by what parties and in what proportions such costs and the costs in the suit are to be paid.

The decree shall be signed and dated by the Judge or Judges who passed it:

Provided that where there are more Judges than one, if there be a difference of opinion among them, it shall not be necessary for any Judge dissenting from the judgment of the Court to sign the decree.

580. Certified copies of the judgment and decree in appeal shall be furnished to the parties on application to the Court and at their expense.

581. A copy of the judgment and of the decree, certified by the Appellate Court or such officer as it appoints in this behalf, shall be sent to the Court which passed the decree appealed against, and shall be filed with the original proceedings in the suit, and an entry of the judgment of the appellate Court shall be made in the register of civil suits.

582. The Appellate Court shall have, in appeals under this chapter, the same powers, and shall perform as nearly as may be the same duties, as are conferred and imposed by this Code on Courts of original jurisdiction in respect of suits instituted under Chapter V; and, in Chapter XXI, so far as may be, the words "plaintiff", "defendant" and "suit" shall be held to include an appellant, a respondent and an appeal, respectively, in proceedings arising out of the death, marriage or insolvency of parties to an appeal.

The provisions hereinbefore contained shall apply to appeals under this chapter so far as such provisions are applicable.

583. When a party entitled to any benefit (by way of restitution or otherwise) under a decree passed in an appeal under this chapter desires to obtain execution of the same, he shall apply to the Court which passed the decree against which the appeal was preferred; and such Court shall proceed to execute the decree passed in appeal, according to the rules hereinbefore prescribed for the execution of decrees in suits.

CHAPTER XLII.

OF APPEALS FROM APPELLATE DECREES.

584. Unless when otherwise provided by this Code or by any other law, Second appeals to High Court. from all decrees passed in appeal by any Court subordinate to a High Court, an appeal shall lie to the High Court on any of the following grounds (namely)—

(a) the decision being contrary to some specified law or usage having the force of law;

(b) the decision having failed to determine some material issue of law or usage having the force of law;

(c) a substantial error or defect in the procedure as prescribed by this Code or any other law, which may possibly have produced error or defect in the decision of the case upon the merits.

585. No second appeal shall lie except on the grounds mentioned in section 584.

586. No second appeal shall lie in any suit of the nature cognizable in Courts of Small Causes, when the amount or value of the subject-matter of the original suit does not exceed five hundred rupees.

587. The provisions contained in Chapter XLI shall apply, as far as may be, to appeals under this chapter, and to the execution of decrees passed in such appeals.

CHAPTER XLIII.

OF APPEALS FROM ORDERS.

588. An appeal shall lie from the following Orders appealable. orders under this Code, and from no other such orders:—

(1) orders under section 20, staying proceedings in a suit;

(2) orders under section 32, striking out or adding the name of any person as plaintiff or defendant;

(3) orders under section 26 or section 66, directing that a party shall appear in person;

(4) orders under section 44, adding a cause of action;

(5) orders under section 47, excluding a cause of action;

(6) orders returning plaints for amendment or to be presented to the proper Court;

(7) orders under section 111, setting-off, or refusing to set-off, one debt against another;

(8) orders rejecting applications under section 103 (in cases open to appeal) for an order to set aside the dismissal of a suit;

(9) orders rejecting applications under section 108, or an order to set aside a decree *ex parte*;

(10) orders under sections 118, 120 and 177;

(11) orders under section 116 or section 245, rejecting, or returning for amendment, written statements or applications for execution of decrees;

(12) orders under sections 143 and 145, directing anything to be impounded;

(13) orders under section 162, for the attachment and sale of moveable property;

(14) orders under section 168 for attachment of property, and orders under section 170 for the sale of attached property;

(15) orders under section 261, as to objections to draft-conveyances or draft-endorsements;

(16) orders under section 294, the first paragraph of section 312 or section 318, for confirming, or setting aside, or refusing to set aside, a sale of immoveable property;

(17) orders in insolvency-matters, under section 351, section 352, section 353 or section 357;

(18) orders under section 366, paragraph two, section 367 or section 368;

(19) orders rejecting applications under section 370 for dismissal of a suit;

(20) orders under section 371, refusing to set aside the abatement or dismissal of a suit;

(21) orders disallowing objections, under section 372;

(22) orders under section 454, section 455 or section 458, directing a next friend or guardian for the suit to pay costs;

(23) orders in interpleader-suits under section 473, clause (a), (b) or (d), section 475 or section 476;

(24) orders under section 479, section 480, section 485, section 492, section 493, section 496, section 497, section 502 or section 503;

(25) orders under section 514, superseding an arbitration;

(26) orders under section 518, modifying an award;

(27) orders of refusal under section 558 to re-admit, or under section 560 to re-hear, an appeal;

(28) orders under section 562, remanding a case;

(29) orders under any of the provisions of this Code, imposing fines, or for the arrest or imprisonment of any person, except when such imprisonment is in execution of a decree.

The orders passed in appeals under this section shall be final.

589. An appeal from any order specified in section 588, clauses (15), (16) and (17), shall lie to the High Court.

When an appeal from any other order is allowed by this chapter, it shall lie to the Court to which an appeal would lie from the decree in the suit in

relation to which such order was made, or, when such order is passed by a Court (not being a High Court) in the exercise of appellate jurisdiction, then to the High Court.

590. The procedure prescribed in Chapter XLI shall, so far as may be, apply to appeals from orders under this Code, or under any special or local law in which a different procedure is not provided.

591. Except as provided in this chapter, no appeal shall lie from any order passed by any Court in the exercise of its original or appellate jurisdiction; but if any decree be appealed against, any error, defect or irregularity in any such order, affecting the decision of the case, may be set forth as a ground of objection in the memorandum of appeal.

CHAPTER XLIV.

OF PAUPER APPEALS.

592. Any person entitled under this Code or any other law to prefer an appeal, who is unable to pay the fee required for the petition of appeal, may, on presenting an application accompanied by a memorandum of appeal, be allowed to appeal as a pauper, subject to the rules contained in Chapters XXVI, XLI, XLII and XLIII, in so far as those rules are applicable:

Provided that the Court shall reject the application unless, upon a perusal thereof and of the judgment and decree against which the appeal is made, it sees reason to think that the decree appealed against is contrary to law or to some usage having the force of law, or is otherwise erroneous or unjust.

593. The inquiry into the pauperism of the applicant may be made either by the Appellate Court or by the Court against whose decision the appeal is made under the orders of the Appellate Court:

Provided that, if the applicant was allowed to sue or appeal as a pauper in the Court against whose decree the appeal is made, no further inquiry in respect of his pauperism shall be necessary, unless the Appellate Court sees special cause to direct such inquiry.

CHAPTER XLV.

OF APPEALS TO THE QUEEN IN COUNCIL.

594. In this chapter, unless there be something repugnant in the subject or context, the expression 'decree' includes also judgment and order.

595. Subject to such rules as may, from time to time, be made by Her Majesty in Council regarding appeals from the Courts of British India, and to the provisions hereinafter contained,

an appeal shall lie to Her Majesty in Council—

(a) from any final decree passed on appeal by a High Court or any other Court of final appellate jurisdiction ;

(b) from any final decree passed by a High Court in the exercise of original civil jurisdiction, and

(c) from any decree, when the case, as hereinafter provided, is certified to be a fit one for appeal to Her Majesty in Council.

596. In each of the cases mentioned in clauses (a) and (b) of section 595,

the amount or value of the subject-matter of the suit in the Court of first instance must be ten thousand rupees or upwards, and the amount or value of the matter in dispute on appeal to Her Majesty in Council must be the same sum or upwards,

or the decree must involve, directly or indirectly, some claim or question to, or respecting, property of like amount or value,

and where the decree appealed from affirms the decision of the Court immediately below the Court passing such decree, the appeal must involve some substantial question of law.

597. Notwithstanding anything contained in section 595,

no appeal shall lie to Her Majesty in Council from the judgment of one Judge of a High Court established under the twenty-fourth and twenty-fifth of Victoria, chapter 104, or of one Judge of a Division Court, or of two or more Judges of such High Court, or of a Division Court constituted by two or more Judges of such High Court, wherever such Judges are equally divided in opinion, and do not amount in number to a majority of the whole of the Judges of the High Court at the time being ;

and no appeal shall lie to Her Majesty in Council from any decree which, under section 586, is final.

598. Whoever desires to appeal under this chapter to Her Majesty in Council must apply by petition to the Court whose decree is complained of.

599. Such application must ordinarily be made within six months from the date of such decree.

But if that period expires when the Court is closed, the application may be made on the day that the Court re-opens.

600. Every petition under section 598 must state the grounds of appeal, and pray for a certificate, either that, as regards amount or value and nature, the case fulfils the requirements of section 596, or that it is otherwise a fit one for appeal to Her Majesty in Council.

Upon receipt of such petition, the Court may direct notice to be served on the opposite party to show cause why the said certificate should not be granted.

601. If such certificate be refused, the petition shall be dismissed :

Provided that, if the decree complained of be a final decree passed by a Court other than a High Court, the order refusing the certificate shall be appealable, within thirty days from the date of the order, to the High Court to which the former Court is subordinate.

602. If the certificate be granted, the applicant shall, within six months from the date of the decree complained of, or within six weeks from the grant of the certificate, whichever is the later date,

(a) give security for the costs of the respondent, and

(b) deposit the amount required to defray the expense of translating, transcribing, indexing and transmitting to Her Majesty in Council a correct copy of the whole record of the suit, except

(1) formal documents directed to be excluded by any order of Her Majesty in Council in force for the time being ;

(2) papers which the parties agree to exclude ;

(3) accounts, or portions of accounts, which the officer empowered by the Court for that purpose considers unnecessary, and which the parties have not specifically asked to be included, and

(4) such other documents as the High Court may direct to be excluded ;

and when the applicant prefers to print in India the copy of the record, except as aforesaid, he shall also, within the time mentioned in the first clause of this section, deposit the amount required to defray the expense of printing such copy.

603. When such security has been completed Admission of appeal and deposit made to the satisfaction of the Court, the Court may

(a) declare the appeal admitted, and

(b) give notice thereof to the respondent, and shall then

(c) transmit to Her Majesty in Council, under the seal of the Court, a correct copy of the said record, except as aforesaid, and

(d) give to either party one or more authenticated copies of any of the papers in the suit on his applying therefor and paying the reasonable expenses incurred in preparing them.

604. At any time before the admission of the appeal, the Court may, upon cause shown, revoke the acceptance of any such security, and make further directions thereon.

605. If at any time after the admission of the appeal, but before the transmission of the copy of the record, except as aforesaid, to Her Majesty in Council, such security appears inadequate,

or further payment is required for the purpose of translating, transcribing, printing, indexing or transmitting the copy of the record, except as aforesaid,

the Court may order the appellant to furnish, within a time to be fixed by the Court, other and sufficient security, or to make, within like time, the required payment.

606. If the appellant fail to comply with such order, the proceedings shall be stayed,

and the appeal shall not proceed without an order in this behalf of Her Majesty in Council,

and in the meantime execution of the decree appealed against shall not be stayed.

607. When the copy of the record, except as aforesaid, has been transmitted to Her Majesty in Council, the appellant may obtain a refund of the balance, if any, of the amount which he has deposited under section 602.

608. Notwithstanding the admission of any appeal under this chapter, the decree appealed against shall be unconditionally enforced, unless the Court admitting the appeal otherwise directs.

But the Court may, if it thinks fit, on any special cause shown by any party interested in the suit, or otherwise appearing to the Court,

(a) impound any moveable property in dispute or any part thereof, or

(b) allow the decree appealed against to be enforced, taking such security from the respondent as the Court thinks fit for the due performance of any order which Her Majesty in Council may make on the appeal, or

(c) stay the execution of the decree appealed against, taking such security from the appellant as the Court thinks fit for the due performance of the decree appealed against, or of any order which Her Majesty in Council may make on the appeal, or

(d) place any party seeking the assistance of the Court under such conditions, or give such other direction respecting the subject-matter of the appeal, as it thinks fit.

609. If, at any time during the pendency of the appeal, the security so furnished by either party appears inadequate, the Court may, on the application of the other party, require further security.

In default of such further security being furnished as required by the Court, if the original security was furnished by the appellant, the Court may, on the application of the respondent, issue execution of the decree appealed against as if the appellant had furnished no such security.

And if the original security was furnished by the respondent, the Court shall, so far as may be practicable, stay all further execution of the decree, and restore the parties to the position in which they respectively were when the security which appears inadequate was furnished, or give such direction respecting the subject-matter of the appeal as it thinks fit.

610. Whoever desires to enforce or to obtain execution of any order of Her Majesty in Council, shall apply by petition, accompanied by a certified copy of the decree or order made in appeal and sought to be enforced or executed, to the Court from which the appeal to Her Majesty was preferred.

Such Court shall transmit the order of Her Majesty to the Court which made the first decree appealed from, or to such other Court as Her Majesty by her said order may direct, and shall (upon the application of either party) give such directions as may be required for the enforcement or execution of the same; and the Court to which the said order is so transmitted shall enforce or execute it accordingly, in the manner and according to the rules applicable to the execution of its original decrees.

When any moneys expressed to be payable in British currency are payable in India under such order, the amount so payable shall be estimated according to the rate of exchange for the time being fixed by the Secretary of State for India in Council, with the concurrence of the Lords Commissioners of Her Majesty's Treasury, for the adjustment of financial transactions between the Imperial and the Indian Governments.

611. The orders made by the Court which enforces or executes the order of Her Majesty in Council, relating to such enforcement or execution, shall be appealable in the same manner and subject to the same rules as the orders of such Court relating to the enforcement or execution of its own decrees.

612. The High Court may, from time to time, make rules consistent with this Act to regulate—

- (a) the service of notices under section 600;
- (b) the grant or refusal of certificates, under sections 601 and 602, by Courts of final appellate jurisdiction subordinate to the High Court;
- (c) the amount and nature of the security required under sections 602, 605 and 609;
- (d) the testing of such security;

(e) the estimate of the cost of transcribing the record;

(f) the preparation, examination and certifying of such transcript;

(g) the revision and authentication of translations;

(h) the preparation of indices to transcripts of records, and of lists of the papers not included therein;

(i) the recovery of costs incurred in British India in connection with appeals to Her Majesty in Council,

and all other matters connected with the enforcement of this chapter.

All such rules shall be published in the local official Gazette, and shall thereupon have the force of law in the High Court and the Courts of final appellate jurisdiction subordinate thereto.

613. All rules heretofore made and published by any High Court relating to appeal to Her Majesty in Council and in force immediately before the passing of this Act, shall, so far as they are consistent with this Act, be deemed to have been made and published hereunder.

614. In sections 595 and 612, the expression 'High Court' shall be deemed to include also the Recorder of Rangoon, but not so as to empower him to make rules binding on Courts other than his own Court.

615. The rules and restrictions referred to in Construction of Bengal Regulation III of 1828, section IV, clause *fifth*, 1828, section 4, clause 5, shall be deemed to be the rules and restrictions applicable to appeals under this Code from the decisions of the High Court of Judicature at Fort William in Bengal.

616. Nothing herein contained shall be understood—

(a) to bar the full and unqualified exercise of Her Majesty's pleasure in receiving or rejecting appeals to Her Majesty in Council, or otherwise howsoever, or

(b) to interfere with any rules made by the Judicial Committee of the Privy Council, and for the time being in force, for the presentation of appeals to Her Majesty in Council, or their conduct before the said Judicial Committee.

And nothing in this chapter applies to any matter of criminal or admiralty or vice-admiralty jurisdiction, or to appeals from orders and decrees of Prize Courts.

PART VII.

CHAPTER XLVI.

OF REFERENCE TO AND REVISION BY THE HIGH COURT.

617. If before or on the hearing of a suit or an appeal in which the decree is final, or if in the execution of any such decree, any question of law or usage having the force of law, or the construction of a document, which construction may affect the merits, arises, on which the Court trying the suit or appeal, or executing the decree, entertains reasonable doubt, the Court may, either of its own motion or on the application of any of the parties, draw up a statement of the facts of the case and the point on which doubt is entertained, and refer such statement with its own opinion on the point for the decision of the High Court.

618. The Court may either stay the proceedings or proceed in the case notwithstanding such reference, and may pass a decree or order contingent upon the opinion of the High Court on the point referred;

but no execution shall be issued, property sold, or person imprisoned in any case in which such reference is made until the receipt of a copy of the judgment of the High Court upon such reference.

619. The High Court shall hear the parties to the case in which the reference is made, in person or by their respective pleaders, and shall decide the point so referred, and shall transmit a copy of its judgment, under the signature of the Registrar, to the Court by which the reference was made; and such Court shall, on the receipt thereof, proceed to dispose of the case in conformity with the decision of the High Court.

620. Costs, if any, consequent on a reference for the opinion of the High Court, shall be costs in the case.

621. When a case is referred to the High Court under this chapter, the High Court may return the case for amendment, and may alter, cancel or set aside any decree or order which the Court making the reference has passed in the case out of which the reference arose, and make such order as it thinks fit.

622. The High Court may call for the record of any case in which no appeal lies to the High Court, if the Court by which the case was decided appears to have exercised a jurisdiction not vested in it by law, or to have failed to exercise a jurisdiction so vested, or to have acted in the exercise of its jurisdiction illegally or with

material irregularity ; and may pass such order in the case as the High Court thinks fit.

PART VIII.

CHAPTER XLVII.

OF REVIEW OF JUDGMENT.

623. Any person considering himself aggrieved—

(a) by a decree or order from which an appeal is hereby allowed, but from which no appeal has been preferred ;

(b) by a decree or order from which no appeal is hereby allowed ; or

(c) by a judgment on a reference from a Court of Small Causes,

and who from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him,

may apply for a review of judgment to the Court which passed the decree or made the order, or to the Court, if any, to which the business of the former Court has been transferred.

A party who is not appealing from a decree may apply for a review of judgment notwithstanding the pendency of an appeal by some other party, except when the ground of such appeal is common to the applicant and the appellant, or when, being a respondent, he can present to the Appellate Court the case on which he applies for the review.

624. Except upon the ground of the discovery of such new and important matter or evidence as aforesaid, or of some clerical error apparent on the face of the decree, no application for a review of judgment, other than that of a High Court, shall be made to any Judge other than the Judge who delivered it.

625. The rules hereinbefore contained as to the form of making appeals shall apply, *mutatis mutandis*, to applications for review.

626. If it appears to the Court that there is not sufficient ground for a review, it shall reject the application.

If the Court be of opinion that the application for the review should be granted, it shall grant the same, and the Judge shall

record with his own hand his reasons for such opinion :

Provided.

Provided that—

(a) no such application shall be granted without previous notice to the opposite party to enable him to appear and be heard in support of the decree a review of which is applied for ; and

(b) no such application shall be granted on the ground of discovery of new matter or evidence which the applicant alleges was not within his knowledge, or could not be adduced by him, when the decree or order was passed, without strict proof of such allegation.

627. If the Judge or Judges, or any one of the Judges, who passed the decree or order, a review of which is applied for, continues or continue attached to the Court at the time when the application for a review is presented, and is not or are not precluded by absence or other cause, for a period of six months next after the application, from considering the decree or order to which the application refers, such Judge or Judges or any of them shall hear the application, and no other Judge or Judges of the Court shall hear the same.

628. If the application for a review be heard by more than one Judge and the Court be equally divided, the application shall be rejected.

If there be a majority the decision shall be according to the opinion of the majority.

629. An order of the Court for rejecting the application shall be final ; but whenever such application is admitted, the admission may be objected to on the ground that it was

(a) in contravention of the provisions of section 624,

(b) in contravention of the provisions of section 626, or

(c) after the expiration of the period of limitation prescribed therefor and without sufficient cause.

Such objection may be made at once by an appeal against the order granting the application, or may be taken in any appeal against the final decree or order made in the suit.

Where the application has been rejected in consequence of the failure of the applicant to appear, he may apply for an order to have the rejected application restored to the file, and, if it be proved to the satisfaction of the Court that he was prevented by any sufficient cause from appearing when such application was called on for hearing, the Court may order it to be restored to the file upon such terms as to costs or otherwise as it thinks fit, and shall appoint a day for hearing the same.

No order shall be made under this section unless the applicant has served the opposite party with notice in writing of the latter application.

No application to review an order passed on review or on an application for a review shall be entertained.

630. When an application for a review is granted, a note thereof shall be made in the register, and the Court may at once rehear the case or make such order in regard to the re-hearing as it thinks fit.

PART IX.

CHAPTER XLVIII.

SPECIAL RULES RELATING TO THE CHARTERED HIGH COURTS.

631. This chapter applies only to High Courts which are or may hereafter be established under the twenty-fourth and twenty-fifth of Victoria, chapter 104 (*An Act for establishing High Courts of Judicature in India*).

632. Except as provided in this chapter the provisions of this Code apply to such High Courts.

633. The High Court shall take evidence, and record judgments and orders in such manner as it by rule from time to time directs.

634. Whenever a High Court considers it necessary that a decree made in the exercise of its ordinary original civil jurisdiction should be enforced before the amount of the costs incurred in the suit can be ascertained by taxation, the Court may order that the decree shall be executed forthwith, except as to so much thereof as relates to the costs;

and, as to so much thereof as relates to the costs, execution for costs that the decree may be executed as soon as the amount of the costs shall be ascertained by taxation.

635. Nothing in this Code shall be deemed to authorize any person on behalf of another to address the Court in the exercise of its ordinary original civil jurisdiction, or to examine witnesses, except when the Court shall have in the exercise of the power conferred by its charter authorized him so to do, or to interfere with the power of the High Court to make rules concerning advocates, vakils and attorneys.

636. Notices to produce documents, summonses to witnesses, and every other judicial process, issued in the exercise of the ordinary or extraordinary original civil jurisdiction of the High Court, and of its matrimonial, testamentary

and intestate jurisdictions, except summonses to defendants issued under section 64, writs of execution, and notices under section 553, may be served by the attorneys in the suit, or by persons employed by them, or by such other persons as the High Court by any rule or order from time to time directs.

637. Any non-judicial or quasi-judicial act which this Code requires to be done by a Judge, and any act which may be done by a Commissioner appointed to examine and adjust accounts under section 394, may be done by the Registrar of the Court or by such other officer of the Court as the Court may direct to do such act.

The High Court may from time to time by rule declare what shall be deemed to be non-judicial and quasi-judicial acts within the meaning of this section.

638. The following portions of this Code shall not apply to the High Court in the exercise of its ordinary or extraordinary original civil jurisdiction, namely, sections 16, 17 and 19, sections 54, clauses (a) and (b), 57, 119, 160, 182 to 185 (both inclusive), 187, 189, 190, 191, 192 (so far as relates to the manner of taking evidence), 198 to 206 (both inclusive), and so much of section 409 as relates to the making of a memorandum;

and section 579 shall not apply to the High Court in the exercise of its appellate jurisdiction.

Nothing in this Code shall extend or apply to any Judge of a High Court in the exercise of jurisdiction as an Insolvent Court.

639. The High Court may from time to time frame forms for any proceeding in such Court, and may make rules as to the books, entries and accounts to be kept by its officers.

PART X.

CHAPTER XLIX.

MISCELLANEOUS.

640. Women, who according to the customs and manners of the country ought not to be compelled to appear in public, shall be exempt from personal appearance in Court.

But nothing herein contained shall be deemed to exempt such women from arrest in execution of civil process.

641. The Local Government may, by notification in the official Gazette, exempt from personal appearance in Court any person whose rank, in the opinion of such Government, entitles him to the

privilege of exemption, and may, by like notification, withdraw such privilege.

The names and residences of the persons so exempted shall from time to time be forwarded to the High Court by the Local Government, and a list of such persons shall be kept in such Court, and a list of such persons as reside within the local limits of the jurisdiction of each Court subordinate to the High Court shall be kept in such subordinate Court.

When any person so exempted claims the privilege of such exemption, and it is consequently necessary to examine him by commission, he shall pay the costs of that commission, unless the party requiring his evidence pays such costs.

642. No Judge, Magistrate or other judicial officer shall be liable to arrest under civil process while going to, presiding in, or returning from, his Court.

And, except as provided in sections 256 and 643, where any matter is pending before a tribunal having jurisdiction therein, or believing in good faith that it has such jurisdiction, the parties thereto, their pleaders, mukhtars, revenue-agents and recognized agents, and their witnesses acting in obedience to a summons, shall be exempt from arrest under civil process while going to or attending such tribunal for the purpose of such matter, and while returning from such tribunal.

643. When in a case pending before any Court, Procedure in case of there appears to the Court certain offences. sufficient ground for sending for investigation to the Magistrate a charge of any such offence as is described in section 193, section 196, section 199, section 200, section 205, section 206, section 207, section 208, section 209, section 210, section 463, section 471, section 474, section 475, section 476 or section 477 of the Indian Penal Code, which may be made in the course of any other suit or proceeding, or with respect to any document offered in evidence in the case, the Court may cause the person accused to be detained till the rising of the Court, and may then send him in custody to the Magistrate, or take sufficient bail for his appearance before the Magistrate.

The Court shall send to the Magistrate the evidence and documents relevant to the charge, and may bind over any person to appear and give evidence before such Magistrate.

The Magistrate shall receive such charge and proceed with it according to law.

644. Subject to the power conferred on the High Court by section 639 and by the twenty-fourth and twenty-fifth of Victoria, chapter 104, section 15, the forms set forth in the fourth schedule hereto annexed, with such variation as the circumstances of each case require, shall be used for the respective purposes therein mentioned.

645. The language which, when this Code comes into force, is the language of any Court subordinate to a High Court, shall continue to be the language of such subordinate Court until the Local Government otherwise orders;

but it shall be lawful for the Local Government from time to time to declare what language shall be the language of every such Court.

645A. In any Admiralty or Vice-Admiralty cause of salvage, towage or collision, the Court, whether it be exercising its original or its appellate jurisdiction, may if it thinks fit, and upon request of either party to such cause shall, summon to its assistance, in such manner as the Court may by rule, from time to time, direct, two competent assessors; and such assessors shall attend and assist accordingly.

Every such assessor shall receive such fees for his attendance as the Court by rule prescribes. Such fees shall be paid by such of the parties as the Court in each case may direct.

646. Whenever the Registrar of a Court of Small Causes has any doubt upon any question of law or usage having the force of law, or as to the construction of a document, which construction may affect the merits of the decision, he may state a case for the opinion of the Judge; and all the provisions herein contained relative to the stating of a case by the Judge shall apply, *mutatis mutandis*, to the stating of a case by the Registrar.

647. The procedure herein prescribed shall be followed, as far as it can be made applicable, in all proceedings in any Court of civil jurisdiction other than suits and appeals.

The High Court may from time to time make rules to provide for the admission, in such proceedings, of affidavits as evidence of the matters to which such affidavits respectively relate; and such rules, on being published in the local official Gazette, shall have the force of law.

648. Where any Court desires that any person shall be arrested or that any property shall be attached under any provision of this Code not relating to the execution of decrees, and such person resides or property is situate outside the local limits of its jurisdiction, the Court may, in its discretion, issue a warrant of arrest or make an order of attachment, and send to the District Court within the local limits of whose jurisdiction such person or property resides or is situate a copy of the warrant or order, together with the probable amount of the costs of the arrest or attachment.

The District Court shall, on receipt of such copy and amount, cause the arrest or attachment to be

made by its own officers, or by a Court subordinate to itself, and shall inform the Court which issued or made such warrant or order of the arrest or attachment;

and the Court making any arrest under this section shall send the person arrested to the Court by which the warrant of arrest was issued, unless he furnishes sufficient security for his appearance before that Court, or (where the case is one under Chapter XXXIV) for satisfying any decree that may be passed against him by such Court, in either of which cases the Court making the arrest shall release him.

649. The rules contained in Chapter XIX shall apply to the execution of any judicial process for the arrest of a person or the sale of property or payment of money, which may be desired or ordered by a Civil Court in any civil proceeding.

In the same chapter, the expression 'Court which passed a decree', or words to that effect, shall, unless there is something repugnant in the context, be deemed to include, where the decree to be executed is passed in appeal, the Court which passed the decree against which the appeal was preferred, and, where the Court which passed the decree to be executed has ceased to exist or to have jurisdiction to execute it, the Court which, if the suit wherein the decree was passed were instituted at the time of making application for execution of the decree, would have jurisdiction to try such suit.

650. The provisions of Chapters XIV and XV relating to witnesses shall apply to all persons required to give evidence or to produce documents in any proceeding under this Code.

650 A. Summonses issued by any Civil or Revenue Court situate beyond the limits of British India may be sent to the Courts in British India and served as if they had been issued by such Courts: Provided that the Courts issuing such summonses have been established by the authority of the Governor General in Council, or that the Governor General in Council has, by notification in the *Gazette of India*, declared the provisions of this section to apply to such Courts.

The Governor General in Council may by like notification cancel any notification made under this section, but not so as to invalidate the service of any summons served previous to such cancellation.

651. Whoever offers any resistance or illegal obstruction to the lawful apprehension of himself under this Code, or under the warrant of any Civil or Revenue Court, or escapes or attempts to escape from any custody in which he is lawfully detained under this Code or under such warrant, shall, on conviction before a Magistrate, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

652. The High Court may from time to time make rules consistent with this Code to regulate any matter connected with its own procedure or the procedure of the Courts of Civil Judicature subject to its superintendence. All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.

THE FIRST SCHEDULE.

(See section 3.)

ACTS REPEALED.

Number and year.	Subject or title.	Extent of repeal.
X of 1877	The Code of Civil Procedure	So much as has not been repealed.
XII of 1879	Amending Act X of 1877, &c.	Sections one to one hundred and three (both inclusive).
VII of 1880	Merchant Shipping	Section eighty-five.

THE SECOND SCHEDULE.

(See section 5.)

Chapters and Sections of this Code extending to Provincial Courts of Small Causes.

PRELIMINARY: Sections 1, 2, 3 and 5.

CHAPTER	I.—Of the Jurisdiction of the Courts and <i>Res Judicata</i> , except section 11.
CHAPTER	II.—Of the Place of Suing, except section 20, paragraph 4, and sections 22 to 24 (both inclusive).
CHAPTER	III.—Of Parties and their Appearances, Applications and Acts.
CHAPTER	IV.—Of the Frame of the Suit, except section 42 and section 44, rule a.
CHAPTER	V.—Of the Institution of Suits.
CHAPTER	VI.—Of the Issue and Service of Summons, except section 77.
CHAPTER	VII.—Of the Appearance of the Parties and Consequence of Non-appearance.
CHAPTER	VIII.—Section 111, Set-off.
CHAPTER	IX.—Of the examination of the Parties by the Court, except section 119.
CHAPTER	X.—Of Discovery and the Admission, &c., of Documents.
CHAPTER	XII.—Section 155, first paragraph, Judgment where either party fails to produce his evidence.
CHAPTER	XIII.—Of Adjournments.
CHAPTER	XIV.—Of the Summoning and Attendance of Witnesses.
CHAPTER	XV.—Of the Hearing of the suit and Examination of Witnesses, except sections 182 to 188 (both inclusive).
CHAPTER	XVII.—Of Judgment and Decree, except sections 204, 207, 211, 212, 213, 214 and 215.
CHAPTER	XVIII.—Sections 220, 221 and 222, Of Costs.
CHAPTER	XIX.—Of the Execution of Decrees, sections 223 to 236 (both inclusive), 239 to 258 (both inclusive), 259 (except so far as relates to the recovery of wages), 266 (except so far as relates to immoveable property), 267 to 273 (both inclusive), 273 (so far as relates to decrees for moveable property), 275 to 280 (both inclusive), 283, 284 (so far as relates to moveable property), 285, 286, 287, 288, 289, 290, 291, 292, 293 (so far as relates to re-sales under 297), 294 to 303 (both inclusive), 328 to 333 (both inclusive, so far as relates to moveable property), 336 to 343 (both inclusive).
CHAPTER	XX.—Section 360, Power to invest certain Courts with Insolvency-jurisdiction.
CHAPTER	XXI.—Of the Death, Marriage, and Insolvency of Parties.
CHAPTER	XXII.—Of the Withdrawal and Adjustment of Suits.
CHAPTER	XXIII.—Of payment into Court.
CHAPTER	XXIV.—Of requiring Security for Costs.
CHAPTER	XXV.—Of Commissions.
CHAPTER	XXVI.—Suits by Paupers.
CHAPTER	XXVII.—Suits by and against Government or Government Servants.
CHAPTER	XXVIII.—Suits by Aliens and by and against Foreign and Native Rulers, except the first paragraph of section 433.
CHAPTER	XXIX.—Suits by and against Corporations and Companies.

THE SECOND SCHEDULE—concluded.

Chapters and Sections of this Code extending to Provincial Courts of Small Causes—concluded.

CHAPTER	XXX.—Suits by and against Trustees, Executors and Administrators.
CHAPTER	XXXI.—Suits by and against Minors and Persons of unsound Mind.
CHAPTER	XXXII.—Suits by and against Military Men.
CHAPTER	XXXIII.—Interpleader.
CHAPTER	XXXIV.—Of Arrest and Attachment before Judgment, except as regards immoveable property.
CHAPTER	XXXVI.—Appointment of Receivers.
CHAPTER	XXXVII.—Reference to Arbitration, sections 506 to 526 (both inclusive).
CHAPTER	XXXVIII.—Of Proceedings on Agreement of Parties.
CHAPTER	XLVI.—Reference to and Revision by High Court.
CHAPTER	XLVII.—Of Review of Judgment.
CHAPTER	XLIX.—Miscellaneous, sections 640 to 647 (both inclusive), sections 649 to 652 (both inclusive).

THE THIRD SCHEDULE.

(See section 7.)

Bombay Enactments.

Bombay Regulation XXIX.	1827.
"	VII, 1830.
"	I, 1831.
"	XVI, 1831.
Act XIX of 1835.	
" XIII of 1842.	

THE FOURTH SCHEDULE.

(See section 644.)

FORMS OF PLEADINGS AND DECREES.

A.—PLAINTS. PART I.

No. 1.

FOR MONEY LENT.

IN THE COURT OF _____, AT
Civil Suit No. _____

A. B. of
against
C. D. of

A. B., the above-named plaintiff, states as follows:—

1. That on the _____ day of _____ 18____, at _____, he lent the defendant _____ rupees repayable on demand [or on the _____ day of _____].
2. That the defendant has not paid the same, except _____ rupees paid on the _____ day of _____ 18____.
- [If the plaintiff claims exemption from any law of limitation, say:—
3. The plaintiff was a minor [or insane] from the _____ day of _____ till the _____ day of _____.
4. The plaintiff prays judgment for _____ rupees, with interest at _____ per cent. from the _____ day of _____ 18____.

[Note.—The object of stating when the debt is to be repaid is merely to fix a date for interest. If, therefore, interest is not claimed, the statement may be omitted.

No. 2.

FOR MONEY RECEIVED TO PLAINTIFF'S USE.

(Title.)

A. B and C. D., the above-named plaintiffs, state as follows:—

1. That on the _____ day of _____ 18____, at _____, the defendant received _____ rupees [or a cheque on the _____ Bank for _____ rupees] from one E. F. for the use of the plaintiffs.
2. That the defendant has not paid [or delivered] the same accordingly.
3. The plaintiffs pray judgment for _____ rupees, with interest at _____ per cent. from the _____ day of _____ 18____.

THE FOURTH SCHEDULE—continued.

No. 3.

FOR PRICE OF GOODS SOLD BY A FACTOR.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18, at , he and E. F., since deceased, delivered to the defendant [one thousand barrels of flour, five hundred mounds of rice, or as the case may be] for sale upon commission.
2. That on the day of 18, [or, on some day unknown to the plaintiff, before the day of 18], the defendant sold the said merchandise for rupees.
3. That the commission and expenses of the defendant thereon amount to rupees.
4. That on the day of 18, the plaintiff demanded from the defendant the proceeds of the said merchandise.
5. That he has not paid the same.

[Demand of judgment.]

No. 4.

FOR MONEY RECEIVED BY DEFENDANT THROUGH THE PLAINTIFF'S MISTAKE OF FACT.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18, at , the plaintiff agreed to buy and the defendant agreed to sell bars of silver at annas per tola of fine silver.
2. That the plaintiff procured the said bars, to be assayed by one E. F., who was paid by the defendant for such assay, and that the said E. F. declared each of the said bars to contain 1,500 tolas of fine silver, and that the plaintiff accordingly paid the defendant Rs. annas therefor.
3. That each of the said bars did contain only 1,200 tolas of fine silver.
4. That the defendant has not repaid the sum so overpaid.

[Demand of judgment.]

[NOTE.—A demand of repayment is not necessary, but it may affect the question of interest or the costs.]

No. 5.

FOR MONEY PAID TO A THIRD PARTY AT THE DEFENDANT'S REQUEST.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18, at , [or by the authority] of the defendant, the plaintiff paid to one E. F., rupees, at the request of the defendant.
2. That, in consideration thereof, the defendant promised [or became bound] to pay the same to the plaintiff on demand [or as the case may be].
3. That [on the day of 18, the plaintiff demanded payment of the same from the defendant, but he has not paid the same.

[Demand of judgment.]

[NOTE.—If the request or authority is implied, the plaint should state facts raising the implication.]

No. 6.

FOR GOODS SOLD AT A FIXED PRICE AND DELIVERED.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18, at , E. F., of , deceased, sold and delivered to the defendant [one hundred barrels of flour, or, the goods mentioned in the schedule hereto annexed, or, sundry goods].
2. That the defendant promised to pay rupees for the said goods on delivery [or, on the day of some day before the plaint was filed].
3. That he has not paid the same.
4. That the said E. F., in his lifetime made his will, whereby he appointed the plaintiff executor thereof.
5. That on the day of 18, the said E. F. died.
6. That on the day of probate of the said will was granted to the plaintiff by the Court of .
7. The plaintiff as executor as aforesaid [Demand of judgment].

[NOTE.—If a day was fixed for payment it should be stated as furnishing a date for the commencement of interest.]

THE FOURTH SCHEDULE—continued.

No. 7.

GOODS SOLD AT A REASONABLE PRICE AND DELIVERED.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , plaintiff sold and delivered to the defendant [sundry articles of house-furniture] but no express agreement was made as to the price.
2. That the same were reasonably worth rupees.
3. That the defendant has not paid the same.

[Demand of judgment.]

(Note.—The law implies a promise to pay so much as the goods are reasonably worth.)

No. 8

FOR GOODS DELIVERED TO A THIRD PARTY AT DEFENDANT'S REQUEST AT A FIXED PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , plaintiff sold to the defendant [one hundred barrels of flour] and, at the request of the defendant, delivered the same to one E. F.
2. That the defendant promised to pay to the plaintiff rupees therefor.
3. That he has not paid the same.

[Demand of judgment.]

No. 9.

FOR NECESSARIES FURNISHED TO THE FAMILY OF DEFENDANT'S TESTATOR WITHOUT HIS EXPRESS REQUEST, AT A REASONABLE PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , plaintiff furnished to [Mary Jones] the wife of [James Jones] deceased, at her request, sundry articles of [food and clothing], but no express agreement was made as to the price.
2. That the same were necessary for her.
3. That the same were reasonably worth rupees.
4. That the said James Jones refused to pay the same.
5. That the defendant is the executor of the last Will of the said James Jones.

[Demand of judgment.]

No. 10.

FOR GOODS SOLD AT A FIXED PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff sold to E. F., of , deceased, [all the crops then growing on his farm in].
2. That the said E. F. promised to pay the plaintiff rupees for the same.
3. That he did not pay the same.
4. That the defendant is administrator of the estate of the said E. F.

[Demand of judgment.]

THE FOURTH SCHEDULE—continued.

No. 11.

FOR GOODS SOLD AT A REASONABLE PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18, at E. F. of sold to the defendant [all the fruit growing in his orchard in], but no express agreement was made as to the price.
2. That the same was reasonably worth rupees.
3. That the defendant has not paid the same.
4. That on the day of the High Court of Judicature at Fort William duly adjudged the said E. F. to be a lunatic and appointed the plaintiff committee of his estate, with the usual powers for the management thereof.
5. The plaintiff as committee as aforesaid [Demand of judgment].

[Note.—When the lunatic's estate is not subject to the ordinary original jurisdiction of a High Court, for paragraphs 4 and 5 substitute the following:—]

4. That on the day of the Civil Court of duly adjudged the said E. F. to be of unsound mind and incapable of managing his affairs, and appointed the plaintiff Manager of his estate.
5. The plaintiff as Manager as aforesaid.

[Demand of judgment.]

No. 12.

FOR GOODS MADE AT DEFENDANT'S REQUEST, AND NOT ACCEPTED.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18, at E. F. of agreed with the plaintiff that the plaintiff should make for him [six tables and fifty chairs], and that the said E. F. should pay for the same upon delivery thereof rupees.
2. That the plaintiff made the said goods, and on the day of 18, offered to deliver the same to the said E. F., and has ever since been ready and willing so to do.
3. That the said E. F. has not accepted the said goods or paid for the same.
4. That on the day of 18, the High Court of Judicature at Fort William duly adjudged the said E. F. to be a lunatic, and appointed the defendant committee of his estate.
5. The plaintiff prays judgment for rupees with interest from the day of at the rate of per cent. per annum, to be paid out of the estate of the said E. F. in the hands of the defendant.

No. 13.

FOR DEFICIENCY UPON A RE-SALE [GOODS SOLD AT AUCTION].

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18, at plaintiff put up at auction sundry [articles of merchandise], subject to the condition that all goods not paid for and removed by the purchaser thereof within [ten days] after the sale, should be re-sold by auction on his account, of which condition the defendant had notice.
2. That the defendant purchased [one crate of crockery] at the said auction at the price of rupees.
3. That the plaintiff was ready and willing to deliver the same to the defendant on the said day and for [ten days] thereafter, of which the defendant had notice.
4. That the defendant did not take away the said goods purchased by him, nor pay therefor, within [ten days] after the sale, nor afterwards.
5. That on the day of 18, at the plaintiff re-sold the said [crate of crockery], on account of the defendant, by public auction, for rupees.
6. That the expenses attendant upon such re-sale amounted to rupees.
7. That the defendant has not paid the deficiency thus arising, amounting to rupees.

[Demand of judgment.]

[Note to § 4.—Unless the seller agreed to deliver, the purchaser must fetch the goods; see Act IX of 1872, section 93.]

THE FOURTH SCHEDULE—continued.

No. 14.

FOR THE PURCHASE-MONEY OF LANDS CONVEYED.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the plaintiff sold [and conveyed] to the defendant [the house and compound No. , in the city of or, a farm known as , in or, a piece of land lying, &c.]
2. That the defendant promised to pay the plaintiff rupees for the said [house and compound, or farm, or land].
3. That he has not paid the same.

[Demand of judgment.]

[NOTE.—Where there has been no actual conveyance, say, in § 1. "and to the defendant the house, &c., and placed him in possession of the same."]

No. 15.

FOR THE PURCHASE-MONEY OF IMMOVABLE PROPERTY CONTRACTED TO BE SOLD, BUT NOT CONVEYED.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the plaintiff and defendant mutually agreed that the plaintiff should sell to the defendant, and that the defendant should purchase from the plaintiff [the house No. , in the town of , or one hundred bighas of land in , bounded by the East Indian railroad, and by other lands of the plaintiff; for rupees.
2. That on the day of 18 , at , the plaintiff tendered [or, was ready and willing, and offered to execute] a sufficient instrument of conveyance of the said property to the defendant, on payment of the said sum, and still is ready and willing to execute the same.
3. That the defendant has not paid the said sum.

[Demand of judgment.]

No. 16.

FOR SERVICES AT A FIXED PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18 , at , the defendant [hired plaintiff as a clerk, at the salary of rupees per year].
2. That from the [said day] until the day of 18 , the plaintiff served the defendant as his [clerk].
3. That the defendant has not paid the said salary.

[Demand of judgment.]

No. 17.

FOR SERVICES AT A REASONABLE PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That between the day of 18 , and the day of 18 , plaintiff [executed sundry drawings, designs and diagrams] for the defendant, at his request; but no express agreement was made as to the sum to be paid for such services.
2. That the said services were reasonably worth rupees.
3. That the defendant has not paid the same.

[Demand of judgment.]

THE FOURTH SCHEDULE—continued.

No. 18.

FOR SERVICES AND MATERIALS AT A FIXED PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , plaintiff [furnished the paper for and printed one thousand copies of a book called] for the defendant, at his request [and delivered the same to him].
2. That the defendant promised to pay rupees therefor.
3. That he has not paid the same.

[Demand of judgment.]

No. 19.

FOR SERVICES AND MATERIALS AT A REASONABLE PRICE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , plaintiff built a house [known as No. in], and furnished the materials therefor, for the defendant, at his request, but no express agreement was made as to the price to be paid for such work and materials.
2. That the said work and materials were reasonably worth rupees.
3. That the defendant has not paid the same.

[Demand of judgment.]

No. 20.

FOR RENT RESERVED IN A LEASE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant entered into a contract with the plaintiff, under their hands, a copy of which is hereto annexed. , the
2. That the defendant has not paid the rent of the [month] ending on the day of 18 , amounting to rupees.

[Or state the substance of the contract.]

[Demand of judgment.]

Another Form.

1. That the plaintiff let to the defendant a house, No. 27, Chowringhee, for seven years to hold from the day of 18 , at rupees a year, payable quarterly.
2. That of such rent quarters are due and unpaid.

[Demand of judgment.]

No. 21.

FOR USE AND OCCUPATION AT A FIXED RENT.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant hired from the plaintiff [the house No. , at the street], at the rent of rupees, payable on the first day of 18 .
2. That the defendant occupied the said premises from the day of 18 to the day of 18 .
3. That the defendant has not paid rupees, being the part of said rent due on the first day of 18 .

[Demand of judgment.]

THE FOURTH SCHEDULE—continued.

No. 22.

FOR USE AND OCCUPATION AT A REASONABLE RENT.

(Title.)

A. B., the above-named plaintiff, executor of the will of X. Y., deceased, states as follows:—

1. That the defendant occupied the [house No. , street], by permission of the said X. Y., from the day of 18 , until the day of 18 , and no agreement was made as to payment for the use of the said premises.
2. That the use of the said premises for the said period was reasonably worth rupees.
3. That the defendant has not paid the same.
4. The plaintiff as such executor as aforesaid prays judgment for rupees.

No. 23

FOR BOARD AND LODGING.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That from the day of 18 , until the day of 18 , the defendant occupied certain rooms in the house [No. , street], by permission of the plaintiff, and was furnished by the plaintiff, at his request, with meat, drink, attendance and other necessaries.
2. That, in consideration thereof, the defendant promised to pay [or That no agreement was made as to payment for such meat, drink, attendance or necessaries, but the same were reasonably worth] the sum of rupees.
3. That the defendant has not paid the same.

[Demand of judgment.]

No. 24.

FOR FREIGHT OF GOODS.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , plaintiff transported in [his barge, or otherwise] [one thousand barrels of flour, or sundry goods], from to , at the request of the defendant.
2. That the defendant promised to pay the plaintiff the sum of [one rupee per barrel] as freight thereon [or, That no agreement was made as to payment for such transportation, but such transportation was reasonably worth rupees].
3. That the defendant has not paid the same.

[Demand of judgment.]

No. 25.

FOR PASSAGE-MONEY.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , plaintiff conveyed the defendant [in his ship, called the , from to , at his request.
2. That the defendant promised to pay the plaintiff rupees therefor. [or That no agreement was made as to the price of the said passage, but the said passage was reasonably worth rupees].
3. That the defendant has not paid the same.

[Demand of judgment.]

THE FOURTH SCHEDULE—continued.

No. 26.

ON AN AWARD.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant, having a controversy between them concerning [a demand of the plaintiff for the price of ten barrels of oil, which the defendant refused to pay], agreed to submit the same to the award of E. F. and G. H., as arbitrators [or, entered into an agreement, a copy of which is hereto annexed].
2. That on the day of 18 , at , the said arbitrators awarded that the defendant should [pay the plaintiff rupees].
3. That the defendant has not paid the same.

[Demand of judgment.]

(Note.—This will apply where the agreement to refer is not filed in court.)

No. 27.

ON A FOREIGN JUDGMENT.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , in the State [or Kingdom] of , the Court of that State [or Kingdom], in a suit therein pending between the plaintiff and the defendant, duly adjudged that the defendant should pay to the plaintiff rupees, with interest from the said date.
2. That the defendant has not paid the same.

[Demand of judgment.]

PLAINTS UPON INSTRUMENTS FOR THE PAYMENT OF MONEY ONLY.

No. 28.

ON AN ANNUITY BOND.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant by his bond became bound to the plaintiff in the sum of rupees to be paid by the defendant to the plaintiff, subject to a condition that if the defendant should pay to the plaintiff rupees half-yearly on the day of and the day of in every year during the life of the plaintiff, the said bond should be void.
2. That afterwards, on the day of 18 , the sum of rupees for of the said half-yearly payments of the said annuity, became due to the plaintiff and is still unpaid.

[Demand of judgment.]

No. 29.

PAYER AGAINST MAKER.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant, by his promissory note now overdue, promised to pay to the plaintiff rupees [days] after date.
2. That he has not paid the same [except rupees, paid on the day of 18].

[Demand of judgment.]

(Note.—Where the note is payable after notice, for paragraphs 1 and 2 substitute:—)

1. That on the day of 18 , at , the defendant by his promissory note promised to pay to the plaintiff rupees months after notice.

THE FOURTH SCHEDULE—continued.

2. That notice was afterwards given by the plaintiff to the defendant to pay the same months after the said notice.
3. That the said time for payment has elapsed, but the defendant has not paid the same.

[Where the note is payable at a particular place, say—]

1. That on the day of 18 , at , the defendant by his promissory note, now overdue, promised to pay to the plaintiff [at Messrs. A. & Co.'s, Madras] rupees months after date.
2. That the said note was duly presented for payment [at Messrs. A. & Co.'s] aforesaid, but has not been paid.

Written Statement of the Defendant.

IN THE COURT, &c.

C. D., the above-named defendant, states as follows:—

1. The defendant made the note sued upon under the following circumstances: The plaintiff and defendant had for some years been in partnership as indigo-manufacturers, and it had been agreed between them that they should dissolve partnership, that the plaintiff should retire from the business, and that the defendant should take over the whole of the partnership-assets and liabilities and should pay the plaintiff the value of his share in the assets after deducting the liabilities.
2. The plaintiff thereupon undertook to examine the partnership-books and inquire into the state of the partnership-assets and liabilities; and he did accordingly examine the said books and make the said inquiries, and he thereupon represented to the defendant that the assets of the firm exceeded Rs. 1,00,000 and that the liabilities of the firm were less than Rs. 30,000, whereas the fact was that the assets of the firm were less than Rs. 30,000 and the liabilities of the firm largely exceeded the assets.
3. The misrepresentations mentioned in the second paragraph of this statement induced the defendant to make the note now sued on, and there never was any other consideration for the making of such note.

No. 30.

FIRST INDORSEER AGAINST MAKER.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant, by his promissory note, now overdue, promised to pay to the order of E. F. [or to E. F. or order] rupees [days after date].
2. That the said E. F. indorsed the same to the plaintiff.
3. That the defendant has not paid the same.

[Demand of judgment].

No. 31.

SUBSEQUENT INDORSEER AGAINST MAKER.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. [As in the last preceding form.]
2. That the same was, by the indorsement of the said E. F. and of G. H. and I. J. [or and others] transferred to the plaintiff.
3. That the defendant has not paid the same.

[Demand of judgment.]

No. 32.

FIRST INDORSEER AGAINST FIRST INDORSEER.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That E. F., on the day of 18 , at , by his promissory note, now overdue, promised to pay to the defendant or order rupees months after date.

THE FOURTH SCHEDULE—continued.

2. That the defendant indorsed the same to the plaintiff.
 3. That on the day of 18 , the same was duly presented for payment, but was not paid.

[Or state facts excusing want of presentment.]

4. That the defendant had notice thereof.

5. That he has not paid the same.

[Demand of judgment.]

No. 33.

SUBSEQUENT INDORSEMENT AGAINST FIRST INDORSER; THE INDORSEMENT BEING SPECIAL.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the defendant indorsed to one E. F. a promissory note, now overdue, made [or purporting to have been made] by one G. H., on the day of 18 , at , to the order of the defendant, for the sum of rupees [payable days after date].

2. That the same was, by the indorsement of the said E. F. [and others], transferred to the plaintiff. [or That the said E. F. indorsed the same to the plaintiff.]

- 3, 4 and 5. [Same as 3, 4 and 5 of the last preceding form.]

[Demand of judgment.]

No. 34.

SUBSEQUENT INDORSEMENT AGAINST HIS IMMEDIATE INDORSER.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the defendant indorsed to him a promissory note, now overdue, made [or purporting to have been made] by one E. F., on the day of 18 , at , to the order of one G. H., for the sum of rupees [payable days after date], and indorsed by the said G. H. to the defendant.

- 2, 3 and 4. [Same as in 3, 4 and 5 in Form No. 33.]

[Demand of judgment.]

No. 35.

SUBSEQUENT INDORSEMENT AGAINST INTERMEDIATE INDORSER.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That a promissory note now overdue, made [or purporting to have been made] by one E. F., on the day of 18 , at , to the order of one G. H., for the sum of rupees [payable days after date], and indorsed by the said G. H. to the defendant, was by the indorsement of the defendant [and others] transferred to the plaintiff.

- 2, 3 and 4. [As in No. 33.]

[Demand of judgment.]

No. 36.

SUBSEQUENT INDORSEMENT AGAINST MAKER, AND FIRST AND SECOND INDORSER.

IN THE COURT OF

AT

Civil Suit No.

A. B. of

against

C. D. of

E. F. of

and

G. H. of

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant, C. D., by his promissory note, now overdue, promised to pay to the order of the defendant, E. F., rupees [payable months after date].

THE FOURTH SCHEDULE—continued.

3. That the said *E. F.* indorsed the same to the defendant, *G. H.*, who indorsed it to the plaintiff.
3. That on the day of 18 , the same was presented [*or state facts excusing want of presentment*] to the said *C. D.* for payment, but was not paid.
4. That the said *E. F.* and *G. H.* had notice thereof.
5. That they have not paid the same.

[Demand of judgment.]

No. 37.

DRAWER AGAINST ACCEPTOR.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , by his bill of exchange, now overdue, the plaintiff required the defendant to pay to him rupees [days after date, or sight, thereof].
2. That the defendant accepted the said bill. [*If the bill is payable at a certain time after sight, the date of acceptance should be stated; otherwise it is not necessary.*]
3. That he has not paid the same.
4. That by reason thereof the plaintiff incurred expenses in and about the presenting and noting of the bill, and incidental to the dishonour thereof.

[Demand of judgment.]

[Note. —Where the bill is payable to a third party, for paragraphs 1, 2, 3, say—]

1. That on, &c., at &c., by his bill of exchange, now overdue, directed to the defendant, the plaintiff required the defendant to pay to *E. F.* or order rupees months after date.
2. That the plaintiff delivered the said bill to the said *E. F.* on
3. That the defendant accepted the said bill, but did not pay the same, whereupon the same was returned to the plaintiff.

No. 38.

PAYEE AGAINST ACCEPTOR.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , the defendant accepted a bill of exchange, now overdue, made [*or purporting to have been made*] by one *E. F.*, on the day of 18 , at , requiring the defendant to pay to the plaintiff rupees
2. That he has not paid the same.

[Demand of judgment.]

No. 39.

FIRST INDORSER AGAINST ACCEPTOR.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , the defendant accepted a bill of exchange, now overdue, made [*or purporting to have been made*] by one *E. F.*, on the day of 18 , at , requiring the defendant to pay to the order of one *G. H.* rupees after sight thereof.
2. That the said *G. H.* indorsed the same to the plaintiff.
3. That the defendant has not paid the same.

[Demand of judgment.]

THE FOURTH SCHEDULE—continued.

No. 40.

SUBSEQUENT INDORSEMENT AGAINST ACCEPTOR.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. [As in the last preceding form, to the end of article 1.]
2. That by the indorsement of the said G. H. [and others], the same was transferred to the plaintiff.
3. That the defendant has not paid the same.

[Demand of judgment.]

No. 41.

PAYEE AGAINST DRAWER FOR NON-ACCEPTANCE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant, by his bill of exchange, directed to E. F., required the said E. F. to pay to the plaintiff rupees [days after sight.]
2. That on the day of 18 , the same was duly presented to the said E. F. for acceptance, and was dishonoured.
3. That the defendant had due notice thereof.
4. That he has not paid the same.

[Demand of judgment.]

No. 42.

FIRST INDORSEMENT AGAINST FIRST INDORSEER.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the defendant indorsed to the plaintiff a bill of exchange, now overdue, made [or purporting to have been made] by one E. F. on the day of 18 , at , requiring one G. H. to pay to the order of the defendant rupees [days] after sight [or after date, or at sight] thereof, [and accepted by the said G. H. on the day of 18].
2. That on the day of 18 , the same was presented to the said G. H. for payment, and was dishonoured.
3. That the defendant had due notice thereof.
4. That he has not paid the same.

[Demand of judgment.]

No. 43.

SUBSEQUENT INDORSEMENT AGAINST FIRST INDORSEER; THE INDORSEMENT BEING SPECIAL.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the defendant indorsed to one E. F. a bill of exchange, now overdue, made [or purporting to have been made] by one G. H., on the day of 18 , at , requiring one I. J. to pay to the order of the defendant rupees days after sight thereof [or otherwise], and accepted by the said I. J. on the day of 18 .
[This clause may be omitted if not according to the fact.]

THE FOURTH SCHEDULE—continued.

2. That the same was, by the indorsement of the said E. F. [and others], transferred to the plaintiff.
3. That on the day of 18 the same was presented to the said I. J. for payment, and was dishonoured.
4. That the defendant had due notice thereof.
5. That he has not paid the same.

[Demand of judgment.]

No. 44.

SUBSEQUENT INDORSEMENT AGAINST HIS IMMEDIATE INDORSER.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the defendant indorsed to plaintiff a bill of exchange, now overdue, made [or purporting to have been made] by one E. F., on the day of 18 at , requiring one G. H. to pay to the order of I. J. rupees days after sight thereof [or otherwise], [accepted by the said G. H.] and indorsed by the said I. J. to the defendant.
2. That on the day of 18 , the same was presented to the said G. H. for payment, and was dishonoured.
3. That the defendant had due notice thereof.
4. That he has not paid the same.

[Demand of judgment.]

No. 45.

SUBSEQUENT INDORSEMENT AGAINST INTERMEDIATE INDORSER.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That a bill of exchange, now overdue, made [or purporting to have been made] by one E. F., on the day of 18 at , requiring one G. H. to pay to the order of one I. J. rupees days after sight thereof [or otherwise], [accepted by the said G. H.] and indorsed by the said I. J. to the defendant, was, by the indorsement of the defendant [and others], transferred to the plaintiff.
2. That on the day of 18 , the same was presented to the said G. H. for payment, and was dishonoured.
3. That the defendant had due notice thereof.
4. That he has not paid the same.

[Demand of judgment.]

No. 46.

INDORSEMENT AGAINST DRAWER, ACCEPTOR AND INDORSER.

IN THE COURT OF

, AT

Civil Suit No. .

A. B. of
against
C. D. of
E. F. of
and
G. H. of

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 at , the defendant C. D., by his bill of exchange, now overdue, directed to the defendant E. F., required the said E. F. to pay to the order of the defendant G. H. rupees [days after sight thereof.]

THE FOURTH SCHEDULE—continued.

2. That on the day of 18 , the said E. F. accepted the same.
3. That the said G. H. indorsed the same to the plaintiff.
4. That on the day of 18 , the same was presented to the said E. F. for payment, and was dishonoured.
5. That the other defendants had due notice thereof.
6. That they have not paid the same.

[Demand of judgment.]

No. 47.

PAYEE AGAINST DRAWER FOR NON-ACCEPTANCE OF A FOREIGN BILL.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant by his bill of exchange, drawn in Calcutta, required one E. F. to pay to the plaintiff in [London] pounds sterling, [sixty days] after sight thereof.
2. That on the day of 18 , the same was presented to the said E. F. for acceptance, and was dishonoured, and was thereupon duly protested.
3. That the defendant had due notice thereof.
4. That he has not paid the same.

[5. That the value of pounds sterling, at the time of the service of notice of protest on the defendant, was rupees annas.]

Wherefore the plaintiff demands judgment against the defendant for rupees, with [ten per centum] compensation and interest from the day of 18 .

No. 48.

PAYEE AGAINST ACCEPTOR.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , one E. F., by his bill of exchange, now overdue, directed to the defendant, required the defendant to pay to the plaintiff rupees after date [or days after sight] thereof.
2. That on the day of 18 , the defendant accepted the said bill.
3. That he has not paid the same.

[Demand of judgment.]

No. 49.

ON A MARINE [OPEN] POLICY, ON VESSEL LOST BY PERILS OF THE SEA, &c.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. The plaintiff was the owner of [or had an interest in] the ship at the time of her loss, as hereinafter mentioned.
2. That on the day of 18 , at , the defendants, in consideration of rupees to them paid [or which the plaintiff then promised to pay] executed to him a policy of insurance upon the said ship, a copy of which is hereto annexed; [or, whereby they promised to pay to the plaintiff, within days after proof of loss and interest, all loss and damage accruing to him by reason of the destruction or injury of the said ship, during her next voyage from to , whether by perils of the sea or by fire, or by other causes therein mentioned, not exceeding rupees].

THE FOURTH SCHEDULE—continued.

3. That the said ship, while proceeding on the voyage mentioned in the said policy, was on the day of 18 , totally lost by the perils of the sea [or otherwise].
4. That the plaintiff's loss thereby was rupees.
5. That on the day of 18 , he furnished the defendants with proof of his loss and interest, and otherwise duly performed all the conditions of the said policy on his part.
6. That the defendants have not paid the said loss.

[Demand of judgment.]

No. 50.

ON CARGO, LOST BY FIRE:—VALUED POLICY.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff was the owner of [or had an interest in] [one hundred bales of cotton] on board the ship at the time of her loss as hereinafter mentioned.
2. That on the day of 18 , at , the defendants, in consideration of rupees which the plaintiff then paid [or promised to pay], executed to him a policy of insurance upon the said goods, a copy of which is hereto annexed; [or, whereby they promised to pay to the plaintiff rupees in case of the total loss, by fire or other causes mentioned, of the said goods before their landing at ; or, in case of partial loss, such damage as the plaintiff might sustain thereby, provided the same should not exceed per centum of the whole value of the goods].
3. That on the day of 18 , at , while proceeding on the voyage mentioned in the said policy, the said goods were totally destroyed by fire (or, as the case may be).
- 4, 5 and 6. [As in paragraphs 4, 5 and 6 of the last preceding form.]

[Demand of judgment.]

No. 51.

ON FREIGHT:—VALUED POLICY.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the plaintiff had an interest in the freight to be earned by the ship on her voyage from to , at the time of her loss as hereinafter mentioned, and that a large quantity of goods was shipped upon freight in her at that time.
2. That on the day of 18 , at , the defendant, in consideration of rupees to him paid, executed to the plaintiff a policy of insurance upon the said freight, a copy of which is hereto annexed [or state its tenor, as before].
3. That the said ship, while proceeding upon the voyage mentioned in the said policy, was, on the day of 18 , totally lost by [the perils of the sea].
4. That the plaintiff has not received any freight from the said ship, nor did she earn any on the said voyage, by reason of her loss as aforesaid.
- 5 and 6. [As in Form No 49.]

[Demand of judgment.]

No. 52.

FOR A LOSS BY GENERAL AVERAGE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff was the owner of [or had an interest in] [one hundred bales of cotton] shipped on board a vessel called the F. Z., from to , at the time of the loss hereafter mentioned.
2. That on the day of 18 , at , in consideration of rupees [which the plaintiff then promised to pay], the defendant executed to the plaintiff a policy of insurance upon his said goods, a copy of which is hereto annexed [or state its tenor, as before].

THE FOURTH SCHEDULE—continued.

3. That on the . . . day of . . . 18 . . . , while proceeding on the voyage mentioned in the said policy, the said vessel was so endangered by perils of the sea, that the master and crew thereof were compelled to, and did, cast into the sea a large part of her rigging and furniture.
4. That the plaintiff was, by reason thereof, compelled to, and did, pay a general average loss of . . . rupees.
5. That on the . . . day of . . . 18 . . . , he furnished the defendant with proof of his loss and interest, and otherwise duly performed all the conditions of the said policy on his part.
6. That the defendant has not paid the said loss.

[Demand of judgment.]

No. 53.

FOR A PARTICULAR AVERAGE LOSS.

(Title.)

A. B., the above-named plaintiff, states as follows:—

- 1 and 2. [As in the last preceding form.]
3. That on the . . . day of . . . 18 . . . , while on the high seas, the sea-water broke into the said ship, and damaged the said [cotton] to the amount of . . . rupees.
- 4 and 5. [As in paragraphs 5 and 6 of the last preceding form.]

[Demand of judgment.]

No. 54.

ON A FIRE-INSURANCE POLICY.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff [was the owner of, or] had an interest in a [dwelling-house, known as No. . . . street, in the city of . . .] at the time of its destruction [or, injury] by fire as hereinafter mentioned.
2. That on the . . . day of . . . 18 . . . at . . . , in consideration of . . . rupees [to them paid], the defendants executed to the plaintiff a policy of insurance on the said [premises], a copy of which is hereto annexed [or state its tenor].
3. That on the . . . day of . . . 18 . . . the said [dwelling-house] was totally destroyed [or, greatly damaged] by fire.
4. That the plaintiff's loss thereby was . . . rupees.
5. That on the . . . day of . . . 18 . . . , he furnished the defendant with proof of his said loss and interest, and otherwise duly performed all the conditions of the said policy on his part.
6. That the defendants have not paid the said loss.

[Demand of judgment.]

No. 55.

AGAINST SURETY FOR PAYMENT OF RENT.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the . . . day of . . . 18 . . . at . . . , one E. F. hired from the plaintiff, for the term of . . . years, the [house No. . . . street . . .] at the annual rent of . . . rupees, payable [monthly].
2. That [at the same time and place] the defendant agreed, in consideration of the letting of the said premises to the said E. F., to guarantee the punctual payment of the said rent.

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THE FOURTH SCHEDULE—continued.

3. That the rent aforesaid for the month of _____ 18____, amounting to _____ rupees, has not been paid.

[If, by the terms of the agreement, notice is required to be given to the surety, add:—]

4. That on the _____ day of _____ 18____, the plaintiff gave notice to the defendant of the non-payment of the said rent, and demanded payment thereof.

5. That he has not paid the same.

[Demand of judgment.]

B.—PLAINTS FOR COMPENSATION FOR BREACH OF CONTRACT.

No. 56.

FOR BREACH OF AGREEMENT TO CONVEY LAND.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the _____ day of _____ 18____, at _____, the plaintiff and defendant entered into an agreement, under their hands, of which a copy is hereto annexed. [Or, That on, &c., the defendant agreed with the plaintiff that, in consideration of a deposit of _____ rupees then paid, and of the further sum of [ten thousand] rupees payable as hereinafter mentioned, he would, on the day of _____ 18____, at _____, execute to the plaintiff a sufficient conveyance of [the house No. _____, street, in the city of _____, free from all incumbrances; and the plaintiff agreed to pay [ten thousand] rupees for the same on delivery thereof].
2. That on the _____ day of _____ 18____, the plaintiff demanded the conveyance of the said property from the defendant and tendered _____ rupees to the defendant [or, That all conditions were fulfilled, and all things happened and all times elapsed necessary to entitle the plaintiff to have the said agreement performed by the defendant on his part.]
3. That the defendant has not executed any conveyance of the said property to the plaintiff [or, That there is a mortgage upon the said property, made by _____ to _____, for _____ rupees, registered in the office of _____, on the _____ day of _____ 18____, and still unsatisfied, or any other defect of title].
4. That the plaintiff has thereby lost the use of the money paid by him as such deposit as aforesaid and of other moneys provided by him for the completion of the said purchase, and has lost the expenses incurred by him in investigating the title of the defendant and in preparing to perform the agreement on his part, and has incurred expense in endeavouring to procure the performance thereof by the defendant.
5. The plaintiff prays judgment for _____ rupees compensation.

No. 57.

FOR BREACH OF AGREEMENT TO PURCHASE LAND.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the _____ day of _____ 18____, at _____, the plaintiff and defendant entered into an agreement, under their hands, of which a copy is hereto annexed. [Or, That on the _____ day of _____ 18____, at _____, the plaintiff and defendant mutually agreed that the plaintiff should sell to the defendant and that the defendant should purchase from the plaintiff forty bighas of land in the village of _____ for _____ rupees.]
2. That on the _____ day of _____ 18____, at _____, the plaintiff, being then the absolute owner of the said property (and the same being free from all incumbrances, as was made to appear to the defendant), tendered to the defendant a sufficient instrument of conveyance of the same [or, was ready and willing, and offered, to convey the same to the defendant by a sufficient instrument,] on the payment by the defendant of the said sum.
3. That the defendant has not paid the same.

[Demand of judgment.]

No. 58.

Another Form.

FOR NOT COMPLETING A PURCHASE OF IMMOVABLE PROPERTY.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That by an agreement dated the _____ day of _____ 18____, it was agreed by and between the plaintiff and the defendant that the plaintiff should sell to the defendant and the defendant should purchase from the plaintiff a house and land at the price of _____ rupees, upon the terms and conditions following (that is to say):—
 (a) That the defendant should pay the plaintiff a deposit of _____ rupees in part of the said purchase-money on the signing of the said agreement, and the remainder on the _____ day of _____ 18____, on which day the said purchase should be completed.
 (b) That the plaintiff should deduce and make a good title to the said premises on or before the _____ day of _____ 18____, and on payment of the said remainder of the said purchase-money as aforesaid should execute to the defendant a proper conveyance of the said premises, to be prepared at the defendant's expense.
2. That all conditions were fulfilled, and all things happened and all times elapsed necessary to entitle the plaintiff to have the said agreement performed by the defendant on his part, yet the defendant did not pay the plaintiff the remainder of the said purchase-money as aforesaid on his part.
3. That the plaintiff has thereby lost the expense which he incurred in preparing to perform the said agreement on his part, and has been put to expense in endeavouring to procure the performance thereof by the defendant.

[Demand of judgment.]

THE FOURTH SCHEDULE—continued.

No. 59.

FOR NOT DELIVERING GOODS SOLD.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18, at , the plaintiff and defendant mutually agreed that the defendant should deliver [one hundred barrels of flour] to the plaintiff [on the day of 18], and that the plaintiff should pay therefor rupees on delivery.
2. That on the [said] day the plaintiff was ready and willing, and offered to pay the defendant the said sum upon delivery of the said goods.
3. That the defendant has not delivered the same, whereby the plaintiff has been deprived of the profits which would have accrued to him from such delivery.

[Demand of judgment.]

No. 60.

FOR BREACH OF CONTRACT TO EMPLOY.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18, at , the plaintiff and defendant mutually agreed that the plaintiff should serve the defendant as [an accountant, or in the capacity of foreman, or as the case may be], and that the defendant should employ the plaintiff as such, for the term of [one year], and pay him for his services rupees [monthly].
2. That on the day of 18, the plaintiff entered upon the service of the defendant as aforesaid, and has ever since been, and still is, ready and willing to continue in such service during the remainder of the said year, whereof the defendant always had notice.
3. That on the day of 18, the defendant wrongfully discharged the plaintiff, and refused to permit him to serve as aforesaid, or to pay him for his services.

[Demand of judgment.]

No. 61.

FOR BREACH OF CONTRACT TO EMPLOY, WHERE THE EMPLOYMENT NEVER TOOK EFFECT.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. [As in last preceding Form.]
2. That on the day of 18, at , the plaintiff offered to enter upon the service of the defendant, and has ever since been ready and willing so to do.
3. That the defendant refused to permit the plaintiff to enter upon such service, or to pay him for his services.

[Demand of judgment.]

No. 62.

FOR BREACH OF CONTRACT TO SERVE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18, at , the plaintiff and defendant mutually agreed that the plaintiff should employ the defendant at an [annual] compensation of rupees, and that the defendant should serve the plaintiff as [an artist] for the term of [one year].
2. That the plaintiff has always been ready and willing to perform his part of the said agreement [and on the day of 18, offered so to do].
3. That the defendant [entered upon] the service of the plaintiff on the above-mentioned day, but afterwards, on the day of 18, he refused to serve the plaintiff as aforesaid.

(Demand of judgment.)

No. 63.

AGAINST A BUILDER FOR DEFECTIVE WORKMANSHIP.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18, at , the plaintiff and defendant entered into an agreement, of which a copy is hereto annexed.

[Or state the tenor of the contract.]

2. That the plaintiff duly performed all the conditions of the said agreement on his part.]

THE FOURTH SCHEDULE—continued.

3. That the defendant [built the house referred to in the said agreement in a bad and unworkmanlike manner].

[Demand of judgment.]

No. 64.

BY THE MASTER AGAINST THE FATHER OR GUARDIAN OF AN APPRENTICE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant entered into an agreement, under his hand and seal,* a copy of which is hereto annexed.

[Or state the tenor of the contract.]

2. That after the making of the said agreement the plaintiff received the said [apprentice] into his service as such apprentice for the term aforesaid, and has always performed and been ready and willing to perform all things in the said agreement on his part to be performed.

3. That on the day of 18 , the said [apprentice] wilfully absented himself from the service of the plaintiff, and continues so to do.

(Demand of judgment.)

No. 65.

BY THE APPRENTICE AGAINST THE MASTER.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant entered into an agreement with the plaintiff and his [father], E. F., under their hands and seals, a copy of which is hereto annexed.

2. That after the making of the said agreement the plaintiff entered into the service of the defendant with him after the manner of an apprentice to serve for the term mentioned in the said agreement, and has always performed all things in the said agreement contained on his part to be performed.

3. That the defendant has not instructed the plaintiff in the business of [or state any other breach, such as cruelty, failure to provide sufficient food, or other ill-treatment].

[Demand of judgment.]

No. 66.

ON A BOND FOR THE FIDELITY OF A CLERK.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , plaintiff employed one E. F. as a clerk.

2. That on the day of 18 , at , the defendant agreed with the plaintiff, that if the said E. F. should not faithfully perform his duties as a clerk to the plaintiff, or should fail to account to the plaintiff for all moneys, evidences of debt, or other property received by him for the use of the plaintiff, the defendant would pay to the plaintiff whatever loss he might sustain by reason thereof, not exceeding rupees.

[Or, 2. That at the same time and place, the defendant bound himself to the plaintiff, by a writing under his hand, in the penal sum of rupees, conditioned that if the said E. F. should faithfully perform his duties as clerk and cashier to the plaintiff, and should justly account to the plaintiff for all moneys, evidences of debt, or other property which should be at any time held by him in trust for the plaintiff, the same should be void but not otherwise.]

[Or, 2. That at the same time and place, the defendant executed to the plaintiff a bond, a copy of which is hereto annexed.]

3. That between the day of 18 , and the day of 18 , the said E. F. received money and other property, amounting to the value of rupees, for the use of the plaintiff, for which he has not accounted to him, and the same still remains due and unpaid.

[Demand of judgment.]

No. 67.

BY TENANT AGAINST LANDLORD, WITH SPECIAL DAMAGE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant, by an instrument in writing, let to the plaintiff [the house No. street], for the term of years, contracting with the plaintiff that he, the plaintiff, and his legal representatives should quietly enjoy possession thereof for the said term.

2. That all conditions were fulfilled and all things happened necessary to entitle the plaintiff to maintain this suit.

3. That on the day of during the said term, one E. F., who was the lawful owner of the said house, lawfully evicted the plaintiff therefrom, and still withholds the possession thereof from him.

4. That the plaintiff was thereby [prevented from continuing the business of a tailor at the said place, was compelled to expend rupees in moving, and lost the custom of G. H. and I. J. by such removal].

[Demand of judgment.]

* The form given in Act XIX of 1880 requires the seal of the father or guardian.

THE FOURTH SCHEDULE—continued.

No. 68.

FOR BREACH OF WARRANTY OF MOVEABLES.

(Title.)

A. B., the above-named plaintiff, states as follows:—

That on the day of 18 , at , the defendant warranted a steam-engine to be in good working order, and thereby induced the plaintiff to purchase the same of him, and to pay him rupees therefor.

2. That the said engine was not then in good working order, whereby the plaintiff incurred expense in having the said engine repaired, and lost the profits which could otherwise have accrued to him while the engine was under repair.

[Demand of judgment.]

No. 69.

ON AN AGREEMENT OF INDEMNITY.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant, being partners in trade under the firm of *A. B. & C. D.*, dissolved the said partnership, and mutually agreed that the defendant should take and keep all the partnership-property, pay all debts of the firm, and indemnify the plaintiff against all claims that might be made upon him on account of any indebtedness of the said firm.

2. That the plaintiff duly performed all the conditions of the said agreement on his part.

3. That on the day of 18 , [a judgment was recovered against the plaintiff and defendant by one *E. F.*, in the High Court of Judicature at , upon a debt due from the said firm to the said *E. F.*, and on the day of 18] the plaintiff paid rupees [in satisfaction of the same].

4. That the defendant has not paid the same to the plaintiff.

[Demand of judgment.]

No. 70.

BY SHIPOWNER AGAINST FREIGHTOR FOR NOT LOADING

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the plaintiff and defendant entered into an agreement, a copy of which is hereto annexed.

[Or, 1. That on , at , the plaintiff and defendant agreed by charter-party that the defendant should deliver to the plaintiff's ship at on the day of 18 , five hundred tons of merchandise, which she should carry to and there deliver, on payment of freight; and that the defendant should have days for loading, days for discharge, and days for demurrage, if required, at rupees per day.]

2. That at the time fixed by the said agreement the plaintiff was ready and willing, and offered, to receive [the said merchandise, or, the merchandise mentioned in the said agreement] from the defendant.

3. That the period allowed for loading and demurrage has elapsed, but the defendant has not delivered the said merchandise to the said vessel.

Wherefore, the plaintiff demands judgment for rupees for demurrage and rupees additional for compensation.

C.—PLAINTS FOR COMPENSATION UPON WRONGS.

No. 71.

FOR TRESPASS ON LAND.

(Title.)

A. B., the above-named plaintiff, states as follows:—

That on the day of 18 , at , the defendant entered upon certain land of the plaintiff, known as [and depastured the same with cattle, trod down the grass, cut the timber, and otherwise injured the same].

[Demand of judgment.]

No. 72.

FOR TRESPASS IN ENTERING A DWELLING-HOUSE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the defendant entered a dwelling-house of the plaintiff called , and made a noise and disturbance therein for a long time, and broke open the doors of the said dwelling-house, and removed, took and carried away the fixtures and goods of the plaintiff therein, and disposed of the same to the defendant's own use, and expelled the plaintiff and his family from the possession of the said dwelling-house, and kept them so expelled for a long time.

2. That the plaintiff was thereby prevented from carrying on his business, and incurred expense in procuring another dwelling-house for himself and family.

[Demand of judgment.]

THE FOURTH SCHEDULE—continued.

No. 73.

FOR TRESPASS ON MOVABLES.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant broke open ten barrels of rum belonging to the plaintiff, and emptied their contents into the street [or, seized and took the plaintiff's goods, that is to say, iron, rice and household furniture, or as the case may be, and carried away the same and disposed of them to his own use]:

or, seized and took the plaintiff's cows and bullocks, and impounded them and kept them impounded for a long time.

2. That the plaintiff was thereby deprived of the use of the cows and bullocks during that time, and incurred expense in feeding them and in getting them restored to him; and was also prevented from selling them at fair, as he otherwise would have done, and the said cows and bullocks are diminished in value to the plaintiff [otherwise, state the injury according to the facts].

[Demand of judgment.]

No. 74.

FOR THE CONVERSION OF MOVEABLE PROPERTY.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , plaintiff was in possession of certain goods described in the schedule hereto annexed [or, of one thousand barrels of flour].

2. That on that day, at , the defendant converted the same to his own use, and wrongfully deprived the plaintiff of the use and possession of the same.

[Demand of judgment.]

The schedule.

No. 75.

AGAINST A WAREHOUSEMAN FOR REFUSAL TO DELIVER GOODS.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant, in consideration of the payment to him of rupees [or, rupees per barrel, per month, &c.], agreed to keep in his godown [one hundred barrels of flour], and to deliver the same to the plaintiff on payment of the said sum.

2. That thereupon the plaintiff deposited with the defendant the said [hundred barrels of flour].

3. That on the day of 18 , the plaintiff requested the defendant to deliver the said goods, and tendered him rupees [or the full amount of storage due thereon], but the defendant refused to deliver the same.

4. That the plaintiff was thereby prevented from selling the said goods to *E. F.*, and the same are lost to the plaintiff.

[Demand of judgment.]

No. 76.

FOR PROCURING PROPERTY BY FRAUD.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant, for the purpose of inducing the plaintiff to sell him certain goods, represented to the plaintiff that [he, the defendant, was solvent, and worth rupees over all his liabilities].

2. That the plaintiff was thereby induced to sell [and deliver] to the defendant [dry goods] of the value of rupees.

3. That the said representations were false [or, state the particular falsehoods], and were then known by the defendant to be so.

4. That the defendant has not paid for the said goods. [Or, if the goods were not delivered, That the plaintiff, in preparing and shipping the said goods and procuring their restoration, expended rupees.]

[Demand of judgment.]

No. 77.

FOR FRAUDULENTLY PROCURING CREDIT TO BE GIVEN TO ANOTHER PERSON.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant represented to the plaintiff that one *E. F.* was solvent and in good credit, and worth rupees over all his liabilities [or, that *E. F.* then held a responsible situation and was in good circumstances, and might safely be trusted with goods on credit].

2. That the plaintiff was thereby induced to sell to the said *E. F.* [rice] of the value of rupees [on month's credit].

THE FOURTH SCHEDULE—continued.

3. That the said representations were false and were then known by the defendant to be so, and were made by him with intent to deceive and defraud the plaintiff [or, to deceive and injure the plaintiff].
4. That the said E. F. [did not pay for the said goods at the expiration of the credit aforesaid, or] has not paid for the said rice, and the plaintiff has wholly lost the same by reason of the premises.

[Demand of judgment.]

No. 78.

FOR POLLUTING THE WATER UNDER THE PLAINTIFF'S LAND.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That he is, and at all the times hereinafter mentioned was, possessed of certain land called _____ and situate in _____, and of a well therein, and of water in the said well, and was entitled to the use and benefit of the said well and of the said water therein, and to have certain springs and streams of water which flowed and ran into the said well to supply the same to flow or run without being fouled or polluted.
2. That on the _____ day of _____ 18____, the defendant wrongfully fouled and polluted the said well and the said water therein and the said springs and streams of water which flowed into the said well.
3. That by reason of the premises the said water in the said well became impure and unfit for domestic and other necessary purposes, and the plaintiff and his family are deprived of the use and benefit of the said well and water.

[Demand of judgment.]

No. 79.

FOR CARRYING ON A NOXIOUS MANUFACTURE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the plaintiff is, and at all the times hereinafter mentioned was, possessed of certain lands called _____ situate in _____.
2. That ever since the _____ day of _____ 18____, the defendant has wrongfully caused to issue from certain smelting works carried on by the defendant large quantities of offensive and unwholesome smoke and other vapours and noxious matter, which spread themselves over and upon the said lands, and corrupted the air, and settled on the surface of the said lands.
3. That thereby the trees, hedges, herbage and crops of the plaintiff growing on the said lands were damaged and deteriorated in value, and the cattle and live stock of the plaintiff on the said lands became unhealthy, and divers of them were poisoned and died.
4. That by reason of the premises, the plaintiff was unable to depasture the said lands with cattle and sheep as he otherwise might have done, and was obliged to remove his cattle, sheep and farming stock therefrom, and has been prevented from having so beneficial and healthy a use and occupation of the said lands as he otherwise would have had.

[Demand of judgment.]

No. 80.

FOR OBSTRUCTING A WAY.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the plaintiff is, and at the time hereinafter mentioned was, possessed of [a house in the village of _____].
2. That he was entitled to a right of way from the said [house] over a certain field to a public highway and back again from the said highway over the said field to the said house, for himself and his servants [with vehicles, or, on foot] at all times of the year.
3. That on the _____ day of _____ 18____, defendant wrongfully obstructed the said way, so that the plaintiff could not pass [with vehicles, or, on foot, or, in any manner] along the said way [and has ever since wrongfully obstructed the same].
4. [State special damage, if any.]

[Demand of judgment.]

Another Form.

1. That the defendant wrongfully dug a trench and heaped up earth and stones in the public highway leading from _____ to _____ so as to obstruct it.
2. That thereby the plaintiff, while lawfully passing along the said highway, fell over the said earth and stones [or, into the said trench] and broke his arm, and suffered great pain, and was prevented from attending to his business for a long time, and incurred expense for medical attendance.

[Demand of judgment.]

No. 81.

FOR DIVERTING A WATER-COURSE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the plaintiff is, and at the time hereinafter mentioned was, possessed of a mill situated on a stream known as the _____, in the village of _____, district of _____.

THE FOURTH SCHEDULE—continued.

2. That by reason of such possession the plaintiff was entitled to the flow of the said stream for working the said mill.

3. That on the day of 18 , the defendant, by cutting the bank of the said stream, wrongfully diverted the water thereof, so that less water ran into the plaintiff's mill.

4. That by reason thereof, the plaintiff has been unable to grind more than sacks per day, whereas, before the said diversion of water, he was able to grind sacks per day.

[Demand of judgment.]

No. 82.

FOR OBSTRUCTING A RIGHT TO USE WATER FOR IRRIGATION.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the plaintiff is, and was at the time hereinafter mentioned, possessed of certain lands situate, &c. and entitled to take and use a portion of the water of a certain stream for irrigating the said lands.

2. That on the day of the defendant prevented the plaintiff from taking and using the said portion of the said water as aforesaid, by wrongfully obstructing and diverting the said stream.

[Demand of judgment.]

No. 83.

FOR WASTE BY A LESSEE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , the defendant hired from him [the house No. street] for the term of

2. That the defendant occupied the same under such hiring.

3. That during the period of such occupation, the defendant greatly injured the premises [defaced the walls, tore up the floors, and broke down the doors; or otherwise specify the injuries as far as possible].

The plaintiff prays judgment for rupees compensation.

No. 84.

FOR ASSAULT AND BATTERY.

(Title.)

A. B., the above-named plaintiff, states as follows:—

That on the day of 18 , at , the defendant assaulted and beat him

The plaintiff prays judgment for rupees compensation.

No. 85.

FOR ASSAULT AND BATTERY, WITH SPECIAL DAMAGE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant assaulted and beat him until he became insensible.

2. That the plaintiff was thereby disabled from attending to his business for [six weeks thereafter], and was compelled to pay rupees for medical attendance, and has been ever since disabled [from using his right arm]. [Or otherwise state the damage, as the case may be.]

[Demand of judgment.]

No. 86.

FOR ASSAULT AND FALSE IMPRISONMENT.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant assaulted the plaintiff and imprisoned him for days [or hours]; [state special damage, if any, thus:—]

2. That by reason thereof the plaintiff suffered great pain of body and mind and was exposed and injured in his credit and circumstances, and was prevented from carrying on his business and from providing for his family by his personal care and attention, and incurred expense in obtaining his liberation from the said imprisonment [or otherwise, as the case may be.]

[Demand of judgment.]

THE FOURTH SCHEDULE—continued.

No. 87.

FOR INJURIES CAUSED BY NEGLIGENCE ON A RAILROAD.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , the defendants were common carriers of passengers by railway between and .
2. That on that day the plaintiff was a passenger in one of the carriages of the defendants on the said road.
3. That while he was such passenger, at [or, near the station of ;
or, between the stations of and], a collision occurred on the said railway, caused by the negligence and unskilfulness of the defendant's servants, whereby the plaintiff was much injured [having his leg broken, his head cut, &c., and state the special damage, if any, as], and incurred expense for medical attendance, and is permanently disabled from carrying on his former business as [a salesman].

[Demand of judgment.]

[Or thus:— 2. That on that day the defendants by their servants so negligently and unskilfully drove and managed an engine and a train of carriages attached thereto upon and along the defendants' railway which the plaintiff was then lawfully crossing, that the said engine and train were driven and struck against the plaintiff, whereby, &c., as in § 3.]

No. 88.

FOR INJURIES CAUSED BY NEGLIGENT DRIVING.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. The plaintiff is a shoemaker, carrying on business at . The defendant is a merchant of .
2. On the [23rd May, 1876], the plaintiff was walking eastward along Chowringhee, in the City of Calcutta, at about 3 o'clock in the afternoon. He was obliged to cross Harrington Street, which is a street running into Chowringhee at right angles. While he was crossing this street, and just before he could reach the foot-pavement on the further side thereof, a carriage of the defendant's, drawn by two horses, under the charge and control of the defendant's servants, was negligently, suddenly and without any warning turned at a rapid and dangerous pace out of Harrington Street into Chowringhee. The pole of the carriage struck the plaintiff and knocked him down, and he was much trampled by the horses.
3. By the blow and fall and trampling the plaintiff's left arm was broken, and he was bruised and injured on the side and back, as well as internally, and in consequence thereof the plaintiff was for four months ill and in suffering, and unable to attend to his business, and incurred heavy medical and other expenses, and sustained great loss of business and profits.

The plaintiff claims rupees damages.

(Title.)

Written Statement of Defendant.

1. The defendant denies that the carriage mentioned in the plaint was the defendant's carriage, or that it was under the charge or control of the defendant's servants. The carriage belonged to [Messrs. E. F. and G. H.] of Street, Calcutta, livery stable-keepers, employed by the defendant to supply him with carriages and horses; and the person under whose charge and control the said carriage was, was the servant of the said [Messrs. E. F. and G. H.]
2. The defendant does not admit that the said carriage was turned out of Harrington Street either negligently, suddenly, or without warning, or at a rapid or dangerous pace.
3. The defendant says, that the plaintiff might and could, by the exercise of reasonable care and diligence, have seen the said carriage approaching him, and avoided any collision with it.
4. The defendant does not admit the statements of the third paragraph of the plaint.

No. 89.

FOR LIBEL; THE WORDS BEING LIBELLOUS IN THEMSELVES.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant published in a newspaper, called the [or, in a letter addressed to E. F.], the following words concerning the plaintiff:—

[Set forth the words used.]

2. That the said publication was false and malicious.

[Demand of judgment.]

NOTE.—If the libel was in a language not the language of the Court, set out the libel verbatim in the foreign language in which it was published, and then proceed thus:—“Which said words, being translated into the language, have the meaning and effect following and were so understood by the persons to whom they were so published, that is to say [here set out a literal translation of the libel in the language of the Court.]”

THE FOURTH SCHEDULE—continued.

No. 90.

FOR LIBEL; THE WORDS NOT BEING LIBELLOUS IN THEMSELVES.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That the plaintiff [is, and] was, on and before the day of 18 , a merchant doing business in the city of
2. That on the day of 18 , at , the defendant published in a newspaper, called the [or, in a letter addressed to E. F., or otherwise how published], the following words concerning the plaintiff:—
[“A. B. of this city has modestly retired to foreign lands. It is said that creditors to the amount of rupees are anxiously seeking his address.”]
3. That the defendant meant thereby that [the plaintiff had absconded to avoid his creditors, and with intent to defraud them].
4. That the said publication was false and malicious.

[Demand of judgment.]

No. 91.

FOR SLANDER; THE WORDS BEING ACTIONABLE IN THEMSELVES.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant falsely and maliciously spoke, in the hearing of E. F. [or, sundry persons], the following words concerning the plaintiff: [“He is a thief”].
2. That, in consequence of the said words, the plaintiff lost his situation as in the employ of

[Demand of judgment.]

No. 92.

FOR SLANDER; THE WORDS NOT BEING ACTIONABLE IN THEMSELVES.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant falsely and maliciously said to one E. F. concerning the plaintiff: [“He is a young man of remarkably easy conscience.”]
2. That the plaintiff was then seeking employment as a clerk, and the defendant meant, by the said words, that the plaintiff was not trustworthy as a clerk.
3. That in consequence of the said words [the said E. F. refused to employ the plaintiff as a clerk].

[Demand of judgment.]

No. 93.

FOR MALICIOUS PROSECUTION.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , at , the defendant obtained a warrant of arrest from [a magistrate of the said city, or, as the case may be] on a charge of , and the plaintiff was arrested thereon, and imprisoned for hours, and gave bail in the sum of rupees to obtain his release.
2. That in so doing, the defendant acted maliciously and without reasonable or probable cause.
3. That on the day of 18 , the said magistrate dismissed the complaint of the defendant, and acquitted the plaintiff.
4. That many persons, whose names are unknown to the plaintiff, hearing of the said arrest, and supposing the plaintiff to be a criminal, have ceased to do business with him; or, that, in consequence of the said arrest, the plaintiff lost his situation as clerk to one E. F., or, that by reason of the premises the plaintiff suffered pain of body and mind, and was prevented from transacting his business, and was injured in his credit, and incurred expense in obtaining his release from the said imprisonment and in defending himself against the said complaint.

[Demand of judgment.]

D.—PLAINTS IN SUITS FOR SPECIFIC PROPERTY.

No. 94.

BY THE ABSOLUTE OWNER FOR THE POSSESSION OF IMMOVABLE PROPERTY.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That X. Y. was the absolute owner [of the estate, or, the share of the estate, called , situate in the district of , the Government-revenue of which is rupees and the estimated value rupees, or, of the house No. , street in the town of Calcutta, the estimated value of which is rupees].

THE FOURTH SCHEDULE—continued.

2. That on the day of 18 , Z. illegally dispossessed the said X. Y. of the said estate [or share or house].
3. That the said X. Y. has since died intestate, leaving the plaintiff, the said A. B., his heir him surviving.
4. That the defendant withholds the possession of the estate [or share or house] from the plaintiff.
- The plaintiff prays judgment:
- (1) for the possession of the said premises;
- (2) for rupees compensation for withholding the same.

Another Form.

A. B., the above-named plaintiff, states as follows:—

1. On the day of , the plaintiff, by an instrument in writing, let to the defendant a house and premises [No. 52, Russell Street, in the] for a term of five years from the day of , at the monthly rent of 300 rupees.
2. By the said instrument the defendant covenanted to keep the said house and premises in good and tenantable repair.
3. The said instrument also contained a clause of re-entry, entitling the plaintiff to re-enter upon the said house and premises, in case the rent thereby reserved, whether demanded or not, should be in arrear for twenty-one days, or in case the defendant should make default in the performance of any covenant upon his part to be performed.
4. On the day of 18 , a month's rent became due, and on the day of 18 , another month's rent became due; on the day of 18 , both had been in arrear for twenty-one days, and both are still due.
5. On the same day of 18 , the house and premises were not and are not now in good or tenantable repair, and it would require the expenditure of a large sum of money to reinstate the same in good and tenantable repair, and the plaintiff's reversion is much depreciated in value. The plaintiff claims
- (1) possession of the said house and premises;
- (2) rupees for arrears of rent;
- (3) rupees compensation for the defendant's breach of his covenant to repair;
- (4) rupees for the occupation of the house and premises from the day of 18 , to the day of recovering possession.

No. 95.

BY THE TENANT.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That one E. F. is the absolute owner of [a piece of land in the town of Calcutta bounded as follows:], the estimated value of which is rupees .
2. That on the day of 18 , the said E. F. let the said premises to the plaintiff for years, from .
3. That the defendant withholds the possession thereof from the plaintiff.

[Demand of judgment.]

No. 96.

FOR MOVEABLE PROPERTY WRONGFULLY TAKEN.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , plaintiff owned [or was possessed of] one hundred barrels of flour, the estimated value of which is rupees.
2. That on that day, at , the defendant took the same.
- The plaintiff prays judgment:
- (1) for the possession of the said goods, or for rupees in case such possession cannot be had;
- (2) for rupees compensation for the detention thereof.

No. 97.

FOR MOVEABLES WRONGFULLY DETAINED.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18 , plaintiff owned [or, state facts showing a right to the possession] the goods mentioned in the schedule hereto annexed [or describe the goods], the estimated value of which is rupees.
2. That from that day until the commencement of this suit, the defendant has detained the same from the plaintiff.
3. That before the commencement of this suit, to wit, on the day of 18 , the plaintiff demanded the same from the defendant, but he refused to deliver them.
- The plaintiff prays judgment:
- (1) for the possession of the said goods, or for rupees, in case such possession cannot be had;
- (2) for rupees compensation for the detention thereof.

The schedule.

THE FOURTH SCHEDULE—continued.

No. 98.

AGAINST A FRAUDULENT PURCHASER AND HIS TRANSFEREE WITH NOTICE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18, at , the defendant [C. D.], for the purpose of inducing the plaintiff to sell him certain goods, represented to the plaintiff that [he was solvent, and worth rupees over all his liabilities].
 2. That the plaintiff was thereby induced to sell and deliver to the said C. D. [one hundred boxes of tea], the estimated value of which is rupees.
 3. That the said representations were false, and were then known by the said C. D. to be so. [Or, That at the time of making the said representations, the said C. D. was insolvent, and knew himself to be so.]
 4. That the said C. D. afterwards transferred the said goods to the defendant E. F. without consideration [or who had notice of the falsity of the representation].
- The plaintiff prays judgment:
- (1) for the possession of the said goods, or for rupees, in case such possession cannot be had;
 - (2) for rupees compensation for the detention thereof.

E.—PLAINTS IN SUITS FOR SPECIAL RELIEF.

No. 99.

FOR RESCISSION OF A CONTRACT ON THE GROUND OF MISTAKE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That on the day of 18, the defendant represented to the plaintiff that a certain piece of ground belonging to the defendant, situated at , contained [ten bighás].
 2. That the plaintiff was thereby induced to purchase the same at the price of rupees in the belief that the said representation was true, and signed an instrument of agreement, of which a copy is hereto annexed. But no conveyance of the same has been executed to him.
 3. That on the day of 18, the plaintiff paid the defendant rupees as part of such purchase-money.
 4. That the said piece of ground contained in fact only [five bighás].
- The plaintiff prays judgment:
- (1) for rupees, with interest from the day of 18;
 - (2) that the said agreement of purchase be delivered up and cancelled.

No. 100.

FOR AN INJUNCTION RESTRAINING WASTE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff is the absolute owner of [describes the property].
 2. That the defendant is in possession of the same under a lease from the plaintiff.
 3. That the defendant has [cut down a number of valuable trees, and threatens to cut down many more for the purpose of sale] without the consent of the plaintiff.
- The plaintiff prays judgment, that the defendant be restrained by injunction from committing or permitting any further waste on the said premises.

[Pecuniary compensation might also be prayed.]

No. 101.

FOR ABATEMENT OF A NUISANCE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff is, and at all the times hereinafter mentioned was, the absolute owner of [the house No. street, Calcutta].
 2. That the defendant is, and at all the said times was, the absolute owner of [a plot of ground in the same street].
 3. That on the day of 18, the defendant erected upon his said plot a slaughter-house, and still maintains the same; and from that day until the present time has continually caused cattle to be brought and killed there [and has caused the blood and offal to be thrown into the street opposite the said house of the plaintiff].
 4. That [the plaintiff has been compelled, by reason of the premises, to abandon the said house, and has been unable to rent the same].
- The plaintiff prays judgment, that the said nuisance be abated.

No. 102.

FOR AN INJUNCTION AGAINST THE DIVERSION OF A WATER-COURSE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

As in Form No. 81.

The plaintiff prays judgment, that the defendant be restrained by injunction from diverting the water as aforesaid.

THE FOURTH SCHEDULE—continued.

No. 103.

FOR RESTORATION OF MOVABLE PROPERTY, THREATENED WITH DESTRUCTION, AND FOR AN INJUNCTION.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That plaintiff is, and at all times hereinafter mentioned was, the owner of [a portrait of his grandfather, which was executed by an eminent painter], and of which no duplicate exists [or, state any facts showing that the property is of a kind that cannot be replaced by money].

2. That on the day of 18 , he deposited the same for safe keeping with the defendant.

3. That on the day of 18 , he demanded the same from the defendant and offered to pay all reasonable charges for the storage of the same.

4. That the defendant refuses to deliver the same to the plaintiff and threatens to conceal, dispose of, cut or injure the same if required to deliver it up.

5. That no pecuniary compensation would be an adequate compensation to the plaintiff for the loss of the [painting];

The plaintiff prays judgment:

(1) that the defendant be restrained by injunction from disposing of, injuring or concealing the said [painting];

(2) that he return the same to the plaintiff.

No. 104.

INTERPLEADER.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. That before the date of the claims hereinafter mentioned, one G. H. deposited with the plaintiff [describe the property] for [safe keeping].

2. That the defendant, C. D., claims the same [under an alleged assignment thereof to him from the said G. H.].

3. That the defendant, E. F., also claims the same [under an order of the said G. H. transferring the same to him.].

4. That the plaintiff is ignorant of the respective rights of the defendants.

5. That he has no claim upon the said property, and is ready and willing to deliver it to such persons as the Court shall direct.

6. That this suit is not brought by collusion with either of the defendants.

The plaintiff prays judgment:

(1) that the defendants be restrained, by injunction, from taking any proceedings against the plaintiff in relation thereto;

(2) that they be required to interplead together concerning their claims to the said property;

(3) that some person be authorized to receive the said property pending such litigation;

(4) that upon delivering the same to such [person], the plaintiff be discharged from all liability to either of the defendants in relation thereto.

No. 105.

ADMINISTRATION BY CREDITOR.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. E. F., late of , was at the time of his death, and his estate still is, indebted to the plaintiff in the sum of [here insert nature of debt and security, if any].

2. The said E. F. made his will, dated the day of

and thereof appointed C. D. executor [or, devised his estate in trust, &c., or, died intestate, as the case may be].

3. The said will was proved by the said C. D. [or, Letters of administration were granted, &c.]

4. The defendant has possessed himself of the moveable [and immoveable, or, the proceeds of the immoveable] property of the said E. F., and has not paid the plaintiff his said debt.

5. The said E. F. died on or about the day of

6. The plaintiff prays that an account may be taken of the moveable [and immoveable] property of the said E. F., deceased, and that the same may be administered under the decree of the Court.

No. 106.

ADMINISTRATION BY SPECIFIC LEGATEE.

(Title.)

[Alter Form No. 105 thus:—]

[Omit paragraph 1 and commence paragraph 2] E. F., late of , duly made his last will, dated the day of and thereof appointed C. D. executor, and by such will bequeathed to the plaintiff [here state the specific legacy.]

For paragraph 4 substitute—

The defendant is in possession of the moveable property of the said E. F., and, amongst other things, of the said [here name the subject of the specific bequest.]

For the commencement of paragraph 6 substitute—

The plaintiff prays that the defendant may be ordered to deliver to him the said [here name the subject of the specific bequest] or that, &c.

THE FOURTH SCHEDULE—continued.

No. 107.

ADMINISTRATION BY PRUCUNIARY LEGATEE.

(Title.)

[Alter Form No. 105 thus:—]

Omit paragraph 1 and substitute for paragraph 2] E. F., late of _____, duly made his last will, dated the _____ day of _____, and thereof appointed C. D. executor, and by such will bequeathed to the plaintiff a legacy of _____ rupees.
In paragraph 4, substitute "legacy" for "debt."

Another Form.

Between E. F. ... Plaintiff,
and
G. H. ... Defendant.

E. F., the above-named plaintiff, states as follows:—

1. A. B. of K in the _____, duly made his last will, dated the [first day of March, 1873], whereby he appointed the defendant and M. N. [who died in the testator's life-time] executors thereof, and bequeathed his property, whether moveable or immovable, to his executors in trust, to pay the rents and income thereof to the plaintiff for his life; and after his decease, and in default of his having a son who should attain twenty-one, or a daughter who should attain that age or marry, upon trust as to his immovable property for the person who would be the testator's next-of-kin, and as to his moveable property for the persons who would be the testator's next-of-kin if he had died intestate at the time of the death of the plaintiff, and such failure of his issue as aforesaid.

2. The testator died on the [first day of July, 1878], and his will was proved by the defendant on the [fourth day of October, 1878]. The plaintiff has not been married.

3. The testator was at his death entitled to moveable and immovable property; the defendant entered into the receipt of the rents of the immovable property and got in the moveable property; he has sold some part of the immovable property.

The plaintiff claims—

- (1) to have the moveable and immovable property of A. B. administered in this Court, and for that purpose to have all proper directions given and accounts taken;
- (2) such further or other relief as the nature of the case may require.

Between E. F. ... Plaintiff,
and
G. H. ... Defendant.

Written Statement of Defendant.

1. A. B.'s will contained a charge of debts; he died insolvent; he was entitled at his death to some immovable property which the defendant sold, and which produced the nett sum of rupees _____, and the testator had some moveable property which the defendant got in, and which produced the nett sum of _____ rupees.

2. The defendant applied the whole of the said sums and the sum of rupees _____ which the defendant received from rents of the immovable property in the payment of the funeral and testamentary expenses and some of the debts of the testator.

3. The defendant made up his accounts and sent a copy thereof to the plaintiff on the [tenth day of January, 1875], and offered the plaintiff free access to the vouchers to verify such accounts, but he declined to avail himself of the defendant's offer.

4. The defendant submits that the plaintiff ought to pay the costs of this suit.

No. 108.

EXECUTION OF TRUSTS.

IN THE COURT OF _____

, AT _____

Civil Suit, No. _____

A. B. of _____
against
C. D. of _____
of the beneficiaries]

Plaintiff,
the beneficiary [or, one
... Defendant.

A. B., the above-named plaintiff, states as follows:—

1. That he is one of the trustees under an instrument of settlement bearing date on or about the _____ day of _____ made upon the marriage of E. F. and G. H., the father and mother of the defendant [or, an instrument of assignment of the estate and effects of E. F. for the benefit of C. D., the defendant, and other the creditors of E. F.]

2. The said A. B. has taken upon himself the burden of the said trust, and is in possession of [or, of the proceeds of] the moveable and immovable property conveyed [or assigned] by the before-mentioned deed.

3. The said C. D. claims to be entitled to a beneficial interest under the before-mentioned deed.

4. The plaintiff is desirous to account for all the rents and profits of the said immovable property [and the proceeds of the sale of the said, or of part of the said, immovable property, or moveable, or the proceeds of the sale of, or of part of, the said moveable, property, or the profits accruing to the plaintiff as such trustee in the execution of the said trust]; and he prays that the Court will take the accounts of the said trust, and also that the whole of the said trust estate may be administered in the Court for the benefit of the said C. D., the defendant, and all other persons who may be interested in such administration, in the presence of the said C. D. and such other persons so interested as the Court may direct, or that the said C. D. may show good cause to the contrary.

[N. B.—Where the suit is by a beneficiary, the plaint may be modelled, mutatis mutandis, on the plaint by a legatee.]

No. 109.

FORECLOSURE OR SALE.

(Title.)

A. B., the above-named plaintiff, states as follows:—

1. By a mortgage-deed dated the _____ day of _____ 18____, a house with the garden and appurtenances, situated within the jurisdiction of this Court, were conveyed by the defendant to him

THE FOURTH SCHEDULE—continued.

the plaintiff, his heirs [or executors, administrators,] and assigns, for securing the principal sum of Rs. together with interest thereon at the rate of Rs. per centum per annum, subject to redemption upon payment by the said defendant of the said principal and interest at a day long since past.

2. There is now due from the defendant to the plaintiff the sum of Rs. for principal and interest on the said mortgage.

3. The plaintiff prays (a) that the Court will order the defendant to pay him the said sum of Rs. with such further interest as may accrue between the filing of the plaint and the day of payment, and also the costs of this suit, on some day to be named by the Court, and in default that the right to redeem the said mortgaged premises may be foreclosed and the plaintiff placed in possession of the same premises; or (b) that the said premises may be sold, and the proceeds applied in and towards the payment of the amount of the said principal, interest and costs; and (c) that if such proceeds shall not be sufficient for the payment in full of such amount, the defendant do pay to the plaintiff the amount of the deficiency with interest thereon at the rate of six per cent. per annum until realization; and (d) that for that purpose all proper directions may be given and accounts taken by the Court.

No. 110.

REDEMPTION.

Title.

[Alter Form No. 109 thus :—]

Transpose parties and also the facts in paragraph 1.

For paragraph 2, substitute—

2. There is now due from the plaintiff to the defendant, for principal and interest on the said mortgage, the sum of Rs. which the plaintiff is ready and willing to pay to the defendant, of which the defendant, before filing this plaint, had notice.

For paragraph 3, substitute—

The plaintiff prays that he may redeem the said premises and that the defendant may be ordered to re-convey the same to him upon payment of the said sum of Rs. and interest with such costs (if any), as the Court may order, upon a day to be named by the Court, and that the Court will give all proper directions for the preparation and execution of such re-conveyance and doing such other acts as may be necessary to put him into possession of the said premises, freed from the said mortgage.

No. 111.

SPECIFIC PERFORMANCE. (No. 1.)

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. By an agreement dated the day of and signed by the above-named defendant, C. D., he the said C. D. contracted to buy of [or sell to] him certain immoveable property therein described and referred to, for the sum of rupees.

2. He has applied to the said C. D. specifically to perform the said agreement on his part, but he has not done so.

3. The said A. B. has been and still is ready and willing specifically to perform the agreement on his part of which the said C. D. has had notice.

4. The plaintiff prays that the Court will order the said C. D. specifically to perform the said agreement and to do all acts necessary to put the said A. B. in full possession of the said property [or to accept a conveyance and possession of the said property] and to pay the costs of the suit.

[N.B.—In suit for delivery up, to be cancelled, of any agreement, omit paragraphs 2 and 3, and substitute a paragraph stating generally the grounds for requiring the agreement to be delivered up to be cancelled—such as that the plaintiff signed it by mistake, under duress, or by the fraud of the defendant—and alter the prayer according to the relief sought.]

No. 112.

SPECIFIC PERFORMANCE. (No. 2.)

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. That on the day of 18, the defendant was absolutely entitled to certain immoveable property described in the agreement hereto annexed.

2. That on the same day, the plaintiff and defendant entered into an agreement, under their hands, a copy of which is hereto annexed.

3. That on the day of 18, the plaintiff tendered rupees to the defendant, and demanded a conveyance of the said property.

4. That on the day of 18, the plaintiff again demanded such conveyance. [Or. That the defendant refused to convey the same to the plaintiff.]

5. That the defendant has not executed such conveyance.

6. That the plaintiff is still ready and willing to pay the purchase-money of the said property to the defendant.

The plaintiff prays judgment:

(1) that the defendant execute to the plaintiff a sufficient conveyance of the said property [following the terms of the agreement];

(2) for rupees compensation for withholding the same.

No. 113.

PARTNERSHIP.

(Title.)

A. B., the above-named plaintiff, states as follows :—

1. He and the said C. D., the defendant, have been for the space of years [or months] last past carrying on business together at within the jurisdiction of this Court, under cer-

THE FOURTH SCHEDULE—continued.

tain articles of partnership in writing, signed by them respectively, [or, under a certain deed sealed and executed by them respectively, or, under a verbal agreement between them, the said plaintiff and defendant].

2. Divers disputes and differences have arisen between the plaintiff and defendant as such partners, whereby it has become impossible to carry on the said business in partnership with advantage to the partners.

3. The plaintiff desires to have the said partnership dissolved, and he is ready and willing to bear his share of the debts and obligations of the partnership according to the terms of the said articles [or deed, or agreement].

4. The plaintiff prays the Court to decree a dissolution of the said partnership, and that the accounts of the said partnership-trading may be taken by the Court, and the assets thereof realized, and that each party may be ordered to pay into Court any balance due from him upon such partnership-account, and that the debts and liabilities of the said partnership may be paid and discharged, and that the costs of the suit may be paid, out of the partnership-assets, and that any balance remaining of such assets, after such payment and discharge, and the payment of the said costs, may be divided between the plaintiff and defendant, according to the terms of the said articles [or deed, or agreement], or that, if the said assets shall prove insufficient, he the plaintiff and the said defendant may be ordered to contribute in such proportions as shall be just to a fund to be raised for the payment and discharge of such debts, liabilities and costs. And to give such other relief as the Court shall think fit.

This plaint was filed by _____ of _____, pleader
for the plaintiff, [or by _____].

[N. B.—In suits for winding-up of any partnership, omit the prayer for dissolution: but instead thereof insert a paragraph stating the fact of the partnership having been dissolved.]

No. 114.

FORMS OF CONCISE STATEMENTS.

[Code of Civil Procedure, section 58.]

The plaintiff's claim is	rs. for money lent [and interest].	Money lent.
The plaintiff's claim is	rs., whereof _____ rs. is for the price of goods sold, and	Several demands.
rs. for money lent, and	rs. for interest.	Rent.
The plaintiff's claim is	rs. for arrears of rent.	Salary, &c.
The plaintiff's claim is	rs. for arrears of salary as a clerk [or, as the case may be].	Interest, General average.
The plaintiff's claim is	rs. for interest upon money lent.	Freight, &c.
The plaintiff's claim is	rs. for a general average contribution.	Banker's balance.
The plaintiff's claim is	rs. for freight and demurrage.	Fees, &c., as pleader.
The plaintiff's claim is	rs. for money deposited with the defendant as a banker.	Commission.
pleader.	rs. for fees for work done [and _____ rs. money expended] as a	
The plaintiff's claim is	rs. for commission earned as [state character—as auctioneer, cotton-broker.	
&c.].	rs. for medical attendances.	Medical attendance.
The plaintiff's claim is	rs. for a return of premiums paid upon policies of insurance.	Return of premium.
The plaintiff's claim is	rs. for the warehousing of goods.	Warehouse-rent.
The plaintiff's claim is	rs. for the carriage of goods by railway.	Carriage of goods.
The plaintiff's claim is	rs. for the use and occupation of a house.	Use and occupation of house.
The plaintiff's claim is	rs. for the hire of [furniture].	Hire of goods.
The plaintiff's claim is	rs. for work done as a [surveyor].	Work done.
The plaintiff's claim is	rs. for board and lodging.	Board and lodging.
The plaintiff's claim is	rs. for the [board, lodging and] tuition of X. Y.	Schooling.
The plaintiff's claim is	rs. for money received by the defendant as pleader [or factor, or collector, or	Money received.
&c.] of the plaintiff.	rs. for fees received by the defendant under colour of the office of	Fees of office.
The plaintiff's claim is	rs. for a return of money overcharged for the carriage of goods by	Money overpaid.
railway.	rs. for a return of fees overcharged by the defendant as	Return of money by stakeholder.
The plaintiff's claim is	rs. for a return of money deposited with the defendant as stake-holder.	Money as stakeholder.
The plaintiff's claim is	rs. for money entrusted to the defendant as stake-holder, and become pay-	Money entrusted to agent.
able to plaintiff.	rs. for a return of money entrusted to the defendant as agent of the	
The plaintiff's claim is	rs. for a return of money obtained from the plaintiff by fraud.	Money obtained by fraud.
The plaintiff's claim is	rs. for a return of money paid to the defendant by mistake.	Money paid by mistake.
The plaintiff's claim is	rs. for a return of money paid to the defendant for [work to be done, or, work	Money paid for work to be done.
left undone; or, a bill to be taken up, or, a bill not taken up; or, &c.]	rs. for a return of money paid as a deposit upon shares to be allotted.	Money paid as deposit upon shares.
The plaintiff's claim is	rs. for money paid for the defendant as his surety.	Money paid as surety for defendant.
The plaintiff's claim is	rs. for money paid for rent due by the defendant.	Rent paid.
The plaintiff's claim is	rs. upon a bill of exchange accepted [or indorsed] for the defendant's accom-	Money paid on account of bill.
modation.	rs. for a contribution in respect of money paid by the plaintiff as surety.	Contribution by surety.
The plaintiff's claim is	rs. for a contribution in respect of a joint debt of the plaintiff and the de-	By co-debtor.
endant, paid by the plaintiff.	rs. for money paid for calls upon shares, against which the defendant was	Money paid for calls.
The plaintiff's claim is		
bound to indemnify the plaintiff.		

THE FOURTH SCHEDULE—continued.

Money payable under award.	The plaintiff's claim is	rs. for money payable under an award.
Life-policy.	The plaintiff's claim is	rs. upon a policy of insurance upon the life of X. Y., deceased.
Money-bond.	The plaintiff's claim is	rs. upon a bond to secure payment of rs. and interest.
Foreign judgment.	The plaintiff's claim is	rs. upon a judgment of the Court in [the Empire of Russia].
Bills of exchange, &c.	The plaintiff's claim is	rs. upon a cheque drawn by the defendant.
	The plaintiff's claim is	rs. upon a bill of exchange accepted [or drawn, or indorsed] by the defendant.
	The plaintiff's claim is	rs. upon a promissory note made [or indorsed] by the defendant.
	The plaintiff's claim is	rs. against the defendant, A. B., as acceptor, and against the defendant, C. D., as drawer [or indorser] of a bill of exchange.
Surety.	The plaintiff's claim is	rs. against the defendant as surety for the price of goods sold.
	The plaintiff's claim is	rs. against the defendant, A. B., as principal, and against the defendant, C. D., as surety, for the price of goods sold [or for arrears of rent, or for money lent, or for money received by the defendant, A. B., as traveller for the plaintiff, or, &c.]
Calls.	The plaintiff's claim is	rs. for calls upon shares.
	<i>Indorsement for Costs, &c.</i>	
	[Add to the above forms] and	
	his pleader within days [or if the summons is to be served out of the jurisdiction, insert the time for appearance limited by the order] from the service hereof, further proceedings will be stayed.	
	<i>Damages and other Claims.</i>	
Agent, &c.	The plaintiff's claim is for damages for breach of a contract to employ the plaintiff as traveller.	
	The plaintiff's claim is for damages for wrongful dismissal from the defendant's employment as traveller [and rs. for arrears of wages].	
	The plaintiff's claim is for damages for the defendant's wrongfully quitting the plaintiff's employment as manager.	
	The plaintiff's claim is for damages for breach of duty as factor [or, &c.,] of the plaintiff [and rs. for money received as factor, or, &c.]	
Apprentices.	The plaintiff's claim is for damages for breach of the terms of a deed of apprenticeship of X. Y. to the defendant [or plaintiff].	
Arbitration.	The plaintiff's claim is for damages for non-compliance with the award of X. Y.	
Assault, &c.	The plaintiff's claim is for damages for assault [and false imprisonment, and for malicious prosecution].	
By husband and wife.	The plaintiff's claim is for damages for assault and false imprisonment of the plaintiff, C. D.	
Against husband and wife.	The plaintiff's claim is for damages for assault by the defendant, C. D.	
Pleader.	The plaintiff's claim is for damages for injury by the defendant's negligence as pleader of the plaintiff	
Ballroom.	The plaintiff's claim is for damages for negligence in the custody of goods [and for wrongfully detaining the same].	
Pledge.	The plaintiff's claim is for damages for negligence in the keeping of goods pawned [and for wrongfully detaining the same].	
Hire.	The plaintiff's claim is for damages for negligence in the custody of furniture [or, a carriage] lent on hire, [and for wrongfully, &c.,].	
Banker.	The plaintiff's claim is for damages for wrongfully neglecting [or refusing] to pay the plaintiff's cheques.	
Bill.	The plaintiff's claim is for damages for breach of a contract to accept the plaintiff's drafts.	
Bond.	The plaintiff's claim is upon a bond conditioned not to carry on the trade of a	
Carrier.	The plaintiff's claim is for damages for refusing to carry the plaintiff's goods by railway.	
	The plaintiff's claim is for damages for refusing to carry the plaintiff by railway.	
	The plaintiff's claim is for damages for breach of duty in and about the carriage and delivery of coals by railway.	
	The plaintiff's claim is for damages for breach of duty in and about the carriage and delivery of machinery by sea.	
Charter-party.	The plaintiff's claim is for damages for breach of charter-party of ship [Mary].	
Claim for return of goods; damages.	The plaintiff's claim is for return of household furniture, [or, &c.,] or their value, and for damages for detaining the same.	
Damages for depriving of goods.	The plaintiff's claim is for wrongfully depriving plaintiff of goods, household furniture, &c.	
Detention.	The plaintiff's claim is for damages for libel.	
Wrongful distress.	The plaintiff's claim is for damages for slander.	
	The plaintiff's claim is for damages for improperly distraining.	
	[This Form shall be sufficient whether the distress complained of be wrongful or excessive, or irregular.]	
Ejectment.	The plaintiff's claim is to recover possession of a house, No. in Street, or of a farm called Blackacre, situate in the of in the of	
To establish title and recover rents.	The plaintiff's claim is to establish his title to [Acres describe property] and to recover the rents thereof.	
	[The two previous Forms may be combined.]	
Fishery.	The plaintiff's claim is for damages for infringement of the plaintiff's right of fishing.	
Fraud.	The plaintiff's claim is for damages for fraudulent misrepresentation on the sale of a horse [or a business, or shares, or, &c.,].	
Guarantee.	The plaintiff's claim is for damages for fraudulent misrepresentation of the credit of A. B.	
	The plaintiff's claim is for damages for breach of a contract of guarantee for A. B.	
	The plaintiff's claim is for damages for breach of a contract to indemnify the plaintiff as the defendant's agent to distrain.	
Insurance.	The plaintiff's claim is for a loss under a policy upon the ship [Royal Charter], and freight of cargo [or for return of premiums].	
	[This Form shall be sufficient whether the loss claimed be total or partial.]	
Fire-insurance.	The plaintiff's claim is for a loss under a policy of fire-insurance upon house and furniture.	
	The plaintiff's claim is for damages for breach of a contract to insure a house.	
Landlord and tenant.	The plaintiff's claim is for damages for breach of a contract to keep a house in repair	

THE FOURTH SCHEDULE—continued.

The plaintiff's claim is for damages for breaches of covenants contained in a lease of a farm.	Landlord and tenant.
The plaintiff's claim is for damages for injury to the plaintiff from the defendant's negligence as a medical man.	Medical man.
The plaintiff's claim is for damages for injury by the defendant's dog.	Mischivous animal.
The plaintiff's claim is for damages for injury to the plaintiff by the negligent driving of the defendant or his servants.	Negligence.
The plaintiff's claim is for damages for injury to the plaintiff while a passenger on the defendant's railway by the negligence of the defendant's servants.	
The plaintiff's claim is for damages for injury to the plaintiff at the defendant's railway-station from the defective condition of the station.	
The plaintiff's claim is as executor of A. B., deceased, for damages for the death of the said A. B., from injuries received while a passenger on the defendant's railway, by the negligence of the defendant's servants.	Act XIII of 1865.
The plaintiff's claim is for damages for breach of promise of marriage.	Promise of marriage.
The plaintiff's claim is for damages for breach of contract to accept and pay for goods.	Sale of goods.
The plaintiff's claim is for damages for non-delivery [or short delivery, or defective quality, or other breach of contract of sale] of cotton [or, &c.].	
The plaintiff's claim is for damages for breach of warranty of a horse.	
The plaintiff's claim is for damages for breach of a contract to sell [or purchase] land.	Sale of land.
The plaintiff's claim is for damages for breach of a contract to let [or take] a house.	
The plaintiff's claim is for damages for breach of a contract to sell [or purchase] the lease, with good-will, fixtures, and stock-in-trade of a public-house.	
The plaintiff's claim is for damages for breach of covenant for title [or for quiet enjoyment, or, &c.] in a conveyance of land.	
The plaintiff's claim is for damages for wrongfully entering the plaintiff's land and drawing water from his well [or cutting his grass, or felling his timber, or pulling down his fences, or removing his gate, or using his land, road or path, or crossing his held, or depositing sand there, or carrying away gravel from thence, or carrying away stones from his river].	Trespass on land.
The plaintiff's claim is for damages for wrongfully taking away the support of plaintiff's land [or, house, or mine].	Support.
The plaintiff's claim is for damages for wrongfully obstructing a way [public highway, or private way].	Way.
The plaintiff's claim is for damages for wrongfully diverting [or obstructing, or polluting, or diverting water from] a water-course.	Water-course, &c.
The plaintiff's claim is for damages for wrongfully discharging water upon the plaintiff's land [or into the plaintiff's mine].	
The plaintiff's claim is for damages for wrongfully obstructing the plaintiff's use of a well.	
The plaintiff's claim is for damages for the infringement of the plaintiff's right of pasture.	Pasture.
[This Form shall be sufficient whatever the nature of the right to pasture be.]	
The plaintiff's claim is for damages for obstructing the access of light to plaintiff's house.	Light.
The plaintiff's claim is for damages for the infringement of the plaintiff's patent.	Patent.
The plaintiff's claim is for damages for the infringement of the plaintiff's copyright.	Copyright.
The plaintiff's claim is for damages for wrongfully using [or imitating] the plaintiff's trademark.	Trademark.
The plaintiff's claim is for damages for breach of a contract to build a ship [or to repair a house, &c.].	Work.
The plaintiff's claim is for damages for breach of a contract to employ the plaintiff to build a ship, &c.	
The plaintiff's claim is for damages to his house, trees, crops, &c., caused by noxious vapours from the defendant's factory [or, &c.].	Nuisance.
The plaintiff's claim is for damages from nuisance by noise from the defendant's works [or stables, or, &c.].	
[Add to indorsement]:—and for an injunction	Injunction.
[Add to indorsement where claim is to land, or to establish title, or both]:—	
and for mesne profits.	Mesne profits.
and for an account of rents or arrears of rent.	Arrears of rent.
and for breach of covenant for [repairs].	Breach of covenant.

1. Creditor to administer Estate.

The plaintiff's claim is as a creditor of X. Y., of _____, deceased, to have the moveable and immoveable property of the said X. Y. administered. The defendant, C. D., is sued as the administrator of the said X. Y. [and the defendants, E. F. and G. H., as his co-heirs at law].

2. Legatee to administer Estate.

The plaintiff's claim is as a legatee under the will dated the _____ day of _____ 18____, of X. Y., deceased, to have the moveable and immoveable property of the said X. Y. administered. The defendant, C. D., is sued as the executor of the said X. Y. [and the defendants E. F. and G. H., as his devisees].

3. Partnership.

The plaintiff's claim is to have an account taken of the partnership-dealings between the plaintiff and defendant [under articles of partnership dated the _____ day of _____], and to have the affairs of the partnership wound up.

4. By Mortgagee.

The plaintiff's claim is to have an account taken of what is due to him for principal, interest and costs on a mortgage dated the _____ day of _____, made between [parties] [or, by deposit of title-deeds], and that the mortgage may be enforced by foreclosure or sale.

5. By Mortgagor.

The plaintiff's claim is to have an account taken of what, if anything, is due on a mortgage dated _____ and made between [parties], and to redeem the property comprised therein.

6. Raising Portions.

The plaintiff's claim is that the sum of _____ rs. which by a deed of settlement dated _____ was provided for the portions of the younger children of _____ may be raised.

7. Execution of Trusts.

The plaintiff's claim is to have the trusts of an indenture dated _____ and made between [parties] carried into execution.

THE FOURTH SCHEDULE—continued.

8. Cancellation or Rectification.

The plaintiff's claim is to have a deed dated _____ and made between [parties] set aside or rectified.

9. Specific Performance.

The plaintiff's claim is for specific performance of an agreement dated the _____ day of _____ for the sale by the plaintiff to the defendant of certain [freehold] hereditaments at _____

No. 115.

PROBATE.

1. By an executor or legatee propounding a will in solemn form.

The plaintiff claims to be executor of the last will dated the _____ day of _____ of C. D., late of _____ deceased, who died on the _____ day of _____ and to have the said will established. This summons is issued against you as one of the next-of-kin of the said deceased [or, as the case may be].

2. By an executor or legatee of a former will, or a next-of-kin, &c., of the deceased, seeking to obtain the revocation of a probate granted in common form.

The plaintiff claims to be executor of the last will dated the _____ day of _____ of C. D., late of _____ deceased, who died on the _____ day of _____ and to have the probate of a pretended will of the said deceased, dated the _____ day of _____ revoked. This summons is issued against you as the executor of the said pretended will [or, as the case may be].

3. By an executor or legatee of a will when letters of administration have been granted as in an intestacy.

The plaintiff claims to be executor of the last will of C. D., late of _____ deceased, who died on the _____ day of _____, dated the _____ day of _____, deceased.

The plaintiff claims that the grant of letters of administration of the estate of the said deceased obtained by you should be revoked, and probate of the said will granted to him.

4. By a person claiming a grant of administration as a next-of-kin of the deceased, but whose interest as next-of-kin is disputed.

The plaintiff claims to be the brother and sole next-of-kin of C. D., of _____ deceased, who died on the _____ day of _____, intestate, and to have as such a grant of administration to the personal estate of the said intestate. This writ is issued against you because you have entered a caveat, and have alleged that you are the sole next-of-kin of the deceased [or, as the case may be].

THE FOURTH SCHEDULE—continued.

No. 117.

SUMMONS FOR DISPOSAL OF SUIT.

Sections 64 and 68 of the Code of Civil Procedure.

(Title.)

To

dwelling at

NOTICE.—1. Should you apprehend your witnesses will not attend of their own accord, you can have summons from this Court to compel the attendance of any witness, and the production of any document that you have a right to call upon the witness to produce, on applying to the Court at any time before the trial, on your depositing their necessary subsistence-money.

2. If you admit the demand, you should pay the money into Court with the costs of the suit, to avoid the summary execution of the decree, which may be against your person or property, or both, if necessary.

WHEREAS

has instituted a suit against you for you are hereby summoned to appear in this Court in person or by a duly authorized pleader of the Court, duly instructed, and able to answer all material questions relating to the suit, or who shall be accompanied by some other person able to answer all such questions on the

day of 18, at o'clock in the forenoon, to answer the above-named plaintiff; and as the day fixed for your appearance is appointed for the final disposal of the suit, you must be prepared to produce all your witnesses on that day; and you are hereby required to take notice that, in default of your appearance on the day before-mentioned, the suit will be heard and determined in your absence; and you will bring with you, or send by your pleader

which the plaintiff desires to inspect, and any documents on which you intend to rely in support of your defence.

GIVEN under my hand and the seal of the Court this day of 18.

L. S.

Judge.

NOTE.—If written statements are required, say—You are [or such a party is, as the case may be] required to put in a written statement by the day of

No. 118.

SUMMONS FOR SETTLEMENT OF ISSUES.

Sections 64 and 68 of the Code of Civil Procedure.

(Title.)

To

dwelling at

NOTICE.—1. Should you apprehend your witnesses will not attend of their own accord, you can have summons from this Court to compel the attendance of any witness, and the production of any document that you have a right to call on the witness to produce, on applying to the Court at any time before the trial, on your depositing their necessary subsistence-money.

2. If you admit the demand, you should pay the money into Court with the costs of the suit, to avoid the summary execution of the decree, which may be against your person or property, or both, if necessary.

WHEREAS

has instituted a suit against you for you are hereby summoned to appear in this Court in person or by a duly authorized pleader of the Court, duly instructed, and able to answer all material questions relating to the suit, or who shall be accompanied by some other person able to answer all such questions, on the

day of 18, at o'clock in the forenoon, to answer the above-named plaintiff; and you are hereby required to take notice that, in default of your appearance on the day before mentioned, the issues will be settled in your absence; and you will bring with you, or send by your pleader

which the plaintiff desires to inspect, and any document on which you intend to rely in support of your defence.

GIVEN under my hand and the seal of the Court this day of 18.

L. S.

Judge.

NOTE.—If written statements are required, say—You are [or such a party is, as the case may be] required to put in a written statement by the day of

No. 119.

SUMMONS TO APPEAR.

Section 68 of the Code of Civil Procedure.

No. of Suit.

IN THE COURT OF

AT

To

(Name, description and address.)

WHEREAS [here enter the name, description and address of the plaintiff] has instituted a suit in this Court against you [here state the particulars of the claim as in the register]: you are hereby summoned to appear in this Court in person on the day of at in the forenoon [If not specially required to appear in person, state—] in person or by a pleader of the Court, duly instructed, and able to answer all material questions relating to the suit, or who shall be accompanied by some other person able

Plaintiff.
Defendant.

THE FOURTH SCHEDULE--continued.

to answer all such questions"] to answer the above-named plaintiff. *(If the summons be for the final disposal of the suit, this further direction shall be added here; "and as the day fixed for your appearance is appointed for the final disposal of the suit, you must be prepared to produce all your witnesses on that day"; and you are hereby required to take notice that, in default of your appearance on the day before-mentioned, the suit will be heard and determined in your absence; and you will bring with you (or send by your agent) [here mention any document the production of which may be required by the plaintiff], which the plaintiff desires to inspect, and any document on which you intend to rely in support of your defence.*

GIVEN under my hand and the seal of the Court this _____ day of _____ 18 ____

L. S.

Judge.

No. 120.

ORDER FOR TRANSMISSION OF SUMMONS FOR SERVICE IN THE JURISDICTION OF ANOTHER COURT.

Section 85 of the Code of Civil Procedure.

IN THE COURT OF _____

Civil Suit, No. _____

AT _____

of 18 ____

A. B. of _____

against _____

C. D. of _____

day of _____

18 ____

WHEREAS it is stated in the plaint that _____, the defendant in the above suit is at present residing in _____, but that the right to sue accrued within the jurisdiction of this Court: it is ordered that a summons returnable on the _____ day of _____ 18 ____ be forwarded for service on the said defendant, to the Court of _____ with a duplicate of this proceeding.

L. S.

Judge.

No. 121.

TO ACCOMPANY RETURN OF SUMMONS OF ANOTHER COURT.

Section 85 of the Code of Civil Procedure.

IN THE COURT OF _____

Civil Suit, No. _____

AT _____

of 18 ____

The _____

day of _____

18 ____

A. B. of _____

against _____

C. D. of _____

Read proceeding from the _____

for service on _____

forwarding _____

in _____

Read bailiff's endorsement on the back of the process stating that the proof of the above having been duly taken by me on the [oath or] affirmation of _____ and it is ordered that the _____ be returned to the _____ with a copy of this proceeding.

L. S.

Judge.

NOTE.—This form will be applicable to process other than summons, the service of which may have to be effected in the same manner.

No. 122.

DEFENDANT'S STATEMENT.

Section 110 of the Code of Civil Procedure.

(Title.)

I, the undersigned defendant [or one of the defendants], disclaim all interest under the will of the said E. F. in the plaint, named [or, as heir-at-law, or, as next-of-kin, or one of the next-of-kin, of E. F., deceased, in the said plaint named].

Or, I, the undersigned defendant, state that I admit [or deny] [here repeat in the language of the plaint the statements admitted or denied].

Or, I, the undersigned defendant, submit that, upon the facts stated in the plaint, it does not appear that there is any agreement which can be legally enforced [or, that it appears upon the said plaint that I am jointly liable with one E. F., who is not a party to the suit, and not severally liable as by the plaint appears, or, that it appears by the said plaint that G. H. should have been a joint-plaintiff with the said A. B. in the said suit, or, as the case may be].

THE FOURTH SCHEDULE—continued.

Or, that the plaintiff has conveyed his interest in the said mortgage [or right to redeem] to one *I. J.* [or, that I have conveyed or assigned to *H. L.* by way of further charge for securing the sum of Rs. , the right to redeem in the property sought by the suit to be foreclosed].
Or, that since the dissolution of the partnership the plaintiff has executed an instrument, whereby the plaintiff covenants to discharge all debts and liabilities of the partnership, and generally to release me from all claims and liabilities either by or to himself and others in respect of the said partnership-trading for, as the case may be].

(Signed) *C. D.*
Defendant.

No. 123.

INTERROGATORIES.

Section 121 of the Code of Civil Procedure.

IN THE COURT OF AT
Civil Suit, No. of 18
A. B.
against
C. D., E. F. and G. H.

Interrogatories on behalf of the above-named *A. B.* [or *C. D.*] for the examination of the above-named [*E. F. and G. H., or A. B.*]

1. Did not, &c.
2. Has not, &c.

The defendant *E. F.* is required to answer the interrogatories numbered
The defendant *G. H.* is required to answer the interrogatories numbered

No. 124.

FORM OF NOTICE TO PRODUCE DOCUMENTS.

Section 131 of the Code of Civil Procedure.

IN THE COURT OF AT
Civil Suit, No. of 18
A. B.
against
C. D.

Take notice that the plaintiff [or defendant] requires you to produce for his inspection the following documents referred to in your plaint [or written statement, or affidavit], dated the day of 18

Describe documents required.

X. Y., Pleader for the plaintiff [or the defendant].

To *Z.*,
Pleader for the defendant [or plaintiff].

No. 125.

SUMMONS TO ATTEND AND GIVE EVIDENCE.

Sections 159 and 163 of the Code of Civil Procedure.

(Title.)

To
WHEREAS your attendance is required to in the above cause, you are hereby required [personally to appear before this Court] on the day of 18, at the hour of A.M.
[and] to bring with you or to send to this Court
A sum of Rs. , being your travelling and other expenses and subsistence-allowance for one day, is herewith sent. If you do not comply with this order, you will be subject to the consequences of non-attendance laid down in the Code of Civil Procedure, section 170.
Notice—(1). If you are summoned only to produce a document and not to give evidence, you shall be deemed to have complied with the summons if you cause such document to be produced in this Court on the day and hour aforesaid.
(2). If you are to be detained beyond the day aforesaid, a sum of Rs. will be tendered to you for each day's attendance beyond the day specified.
Given under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 126.

Another Form.

No. of Suit.

IN THE COURT OF AT
Plaintiff.
Defendant.

To
[Name, description and address.]
You are hereby summoned to appear in this Court in person on the day of at in the forenoon, to give evidence on behalf of the plaintiff [or, the defendant] in the

THE FOURTH SCHEDULE—continued.

above-mentioned suit, and to produce [here describe with convenient certainty any document the production of which may be required. If the summons be only to give evidence, or if it be only to produce a document, it must be expressed accordingly], and you are not to depart thence until you have been examined [or have produced the document] and the Court has risen, or unless you have obtained the leave of the Court.

FORMS OF DECREES.

No. 127.

SIMPLE MONEY-DECREE.

(Title.)

Claim for
This cause coming on _____ for final disposal before _____ in the
presence of _____, on the part of the plaintiff, and _____ on the part of the
defendant, it is ordered that the _____ do pay to _____ the
sum of Rs. _____, with interest thereon at the rate of _____ per cent. per
from _____ to the date of realization of the said sum, and do also pay to the
the costs of this suit as taxed by the officer of the Court, with interest thereon at the rate
aforesaid from the date of taxation to the date of realization.

Costs of suit.

PLAINTIFF.			DEFENDANT.		
	Ra.	A. P.		Ra.	A. P.
1. Stamp for plaint ...			Stamp for power ...		
2. Do. for power ...			Do. petition ...		
3. Do. exhibits ...			Pleader's fee ...		
4. Pleader's fees on Rs. ...			Subsistence for witnesses ...		
5. Translation-fee ...			Service of process ...		
6. Subsistence for witness for attendance ...			Translation-fee ...		
7. Commissioner's fee ...			Commissioner's fee ...		
8. Service of process ...					
9. &c. ...					
TOTAL ...			TOTAL ...		

GIVEN under my hand and the seal of the Court, this _____ day of _____ 18 .

L. S.

Judge.

No. 128.

DECREE FOR SALE IN A SUIT BY A MORTGAGEE OR PERSON ENTITLED TO A LIEN.

(Title.)

It is ordered that it be referred to the Registrar [or Taxing Officer] to take an account of what is due to the plaintiff for principal and interest on the mortgage [or lien] mentioned in the plaint, and to tax the plaintiff's costs of this suit, and that the Registrar [or Taxing Officer] do declare in court on the day of _____ what he shall find to be due for principal and interest as aforesaid, and for costs; And upon the defendant paying into court what shall be certified to be due to the plaintiff for principal and interest as aforesaid, together with the said costs, within six months from the date of declaring in court the amount so due; it is ordered that the plaintiff do reconvey the said mortgaged premises free and clear from all incumbrances done by him, or any claiming by, from, or under, him, and do deliver up to the defendant or to such person as he appoints all documents in his custody or power relating thereto, and that upon such reconveyance being made, and documents being delivered up, the Registrar [or Taxing Officer] shall pay out to the plaintiff the said sum so paid in as aforesaid for principal, interest and costs; but in default of the defendant paying into court such principal, interest and costs as aforesaid by the time aforesaid, then it is ordered that the said mortgaged premises [or the premises subject to the said lien] be sold with the approbation of the Registrar [or Taxing Officer]. And it is ordered that the proceeds of such sale (after defraying thereout the expenses of the sale) be paid into court, to the end that the same may be duly applied in payment of what shall be found due to the plaintiff for principal, interest and costs as aforesaid, and that the balance (if any) shall be paid to the defendant or other person entitled to receive the same.

No. 129.

FINAL DECREE FOR FORECLOSURE.

(Title.)

WHEREAS it appears to the Court that the defendant has not paid into court the sum _____ which was on the _____ day of _____ last declared in court to be due to the plaintiff for principal and interest upon the mortgage in the plaint mentioned, and for costs, pursuant to the order made in

THE FOURTH SCHEDULE—continued.

this suit on the _____ day of _____ last, and that the period of six months has elapsed since the said _____ day of _____
 It is ordered that the defendant do stand absolutely debarred of all right to redeem the said mortgaged premises.

No. 130.

PRELIMINARY ORDER—ADMINISTRATION-SUIT.

Section 213 of the Code of Civil Procedure.

(Title.)

It is ordered that the following accounts and inquiries be taken and made; that is to say:—

In creditor's suit—

1. That an account be taken of what is due to the plaintiff and all other the creditors of the deceased.

In suits by legatees—

2. An account be taken of the legacies given by the testator's will.

In suits by next-of-kin—

An inquiry be made and account taken of what, or of what share, if any, the plaintiff is entitled to as next-of-kin [or one of the next-of-kin] of the intestate.

[After the first paragraph, the Order will, where necessary, order, in a creditor's suit, inquiry and accounts for legatees, heirs-at-law and next-of-kin. In suits by claimants other than creditors, after the first paragraph, in all cases, an order to inquire and take an account of creditors will follow the first paragraph, and such of the others as may be necessary will follow, omitting the first formal words. The form is continued as in a creditor's suit.]

3. An account of the funeral and testamentary expenses.

4. An account of the moveable property of the deceased come to the hands of the defendant, or to the hands of any other person by his order or for his use.

5. An inquiry what part (if any) of the moveable property of the deceased is outstanding and undisposed of.

6. And it is further ordered, that the defendant do, on or before the _____ day of _____ next, pay into court all sums of money which shall be found to have come to his hands, or to the hands of any person by his order or to his use.

7. And that if the Registrar shall find it necessary for carrying out the objects of the suit to sell any part the moveable property of the deceased, that the same be sold accordingly, and the proceeds paid into court.

8. And that Mr. E. F. be Receiver in the suit [or proceeding], and receive and get in all outstanding debts and outstanding moveable property of the deceased, and pay the same into the hands of the Registrar [and shall give security by bond for the due performance of his duties to the amount of _____ rupees].

9. And it is further ordered, that if the moveable property of the deceased be found insufficient for carrying out the objects of the suit, then the following further inquiries be made, and accounts taken, that is to say,—

(a) an inquiry what immoveable property the deceased was seized of or entitled to at the time of his death;

(b) an inquiry what are the incumbrances (if any) affecting the immoveable property of the deceased, or any part thereof;

(c) an account, so far as possible, of what is due to the several incumbrancers, and to include a statement of the priorities of such of the incumbrancers as shall consent to the sale hereinafter directed.

10. And that the immoveable property of the deceased, or so much thereof as shall be necessary to make up the fund in court sufficient to carry out the object of the suit, be sold with the approbation of the Judge, free from incumbrances (if any) of such incumbrancers as shall consent to the sale, and subject to the incumbrances of such of them as shall not consent.

11. And it is ordered, that G. H. shall have the conduct of the sale of the immoveable property, and shall prepare the conditions and contracts of sale subject to the approval of the Registrar, and that in case any doubt or difficulty shall arise the papers shall be submitted to the Judge to settle.

12. And it is further ordered, that for the purpose of the inquiries hereinbefore directed, the Registrar shall advertise in the newspapers according to the practice of the Court, or shall make such inquiries in any other way which shall appear to the Registrar to give the most useful publicity to such inquiries.

13. And it is ordered, that the above inquiries and accounts be made and taken, and that all other acts ordered to be done be completed, before the _____ day of _____ and that the Registrar do certify the result of the inquiries, and the accounts, and that all other acts ordered are completed, and have his certificate in that behalf ready for the inspection of the parties on the _____ day of _____

14. And, lastly, it is ordered, that this suit [or matter] stand adjourned for making final decree to the _____ day of _____

[Such part only of this order is to be used as is applicable to the particular case.]

No. 131.

FINAL DECREE IN AN ADMINISTRATION-SUIT BY A LEGATEE.

Section 213 of the Code of Civil Procedure.

1. It is ordered that the defendant do on or before the _____ day of _____ pay into court the sum of Rs. _____, the balance by the said certificate found to be due from the said defendant on account of the estate of _____, the testator, and also the sum of Rs. _____ for interest, at the rate of _____ per centum per annum, from the _____ day of _____ to the _____ day of _____ amounting together to the sum of Rs. _____

2. Let the Registrar [or Taxing officer] of the said Court tax the costs of the plaintiff and defendant in this suit, and let the amount of the said costs, when so taxed, be paid out of the said sum of Rs. _____ ordered to be paid into court as aforesaid, as follows:—

(a).—The costs of the plaintiff to Mr. _____, his attorney [or pleader], and the costs of the defendant to Mr. _____, his attorney [or pleader].

THE FOURTH SCHEDULE—continued.

- (3).—And (if any debts are due) with the residue of the said sum of Rs. , after payment of the plaintiff's and defendant's costs as aforesaid, let the sums found to be owing to the several creditors mentioned in the schedule to the Registrar's certificate, together with subsequent interest on such of the debts as bear interest, be paid; and after making such payments, let the amount coming to the several legatees mentioned in the schedule, together with subsequent interest (to be verified as aforesaid), be paid to them.
3. And if there should then be any residue, let the same be paid to the residuary legatee.

DECREE IN AN ADMINISTRATION-SUIT BY A LEGATEE, WHERE AN EXECUTOR IS HELD PERSONALLY LIABLE FOR THE PAYMENT OF LEGACIES.

Section 213 of the Code of Civil Procedure.

1. Declare that the defendant is personally liable to pay the legacy of Rs. bequeathed to the plaintiff;
2. And it is ordered, that an account be taken of what is due for principal and interest on the said legacy;
3. And it is also ordered, that the defendant do within weeks after the date of the Registrar's certificate, pay to the plaintiff the amount of what the Registrar shall certify to be due for principal and interest;
4. And it is ordered, that the defendant do pay the plaintiff his costs of suit, the same to be taxed in case the parties differ.

FINAL DECREE IN AN ADMINISTRATION-SUIT BY NEXT-OF-KIN.

Section 213 of the Code of Civil Procedure.

1. Let the Registrar of the said Court tax the costs of the plaintiff and defendant in this suit, and let the amount of the said plaintiff's costs, when so taxed, be paid by the defendant to the plaintiff out of the sum of Rs. , the balance by the said certificate found to be due from the said defendant on account of the personal estate of E. F., the intestate, within one week after the taxation of the said costs by the said Registrar, and let the defendant retain for her own use out of such sum her costs, when taxed.
2. And it is ordered, that the residue of the said sum of Rs. , after payment of the plaintiff's and defendant's costs as aforesaid, be paid and applied by defendant as follows:—
- (a).—Let the defendant, within one week after the taxation of the said costs by the Registrar as aforesaid, pay one-third share of the said residue to the plaintiffs, A. B., and C., his wife, in her right, as the sister and one of the next-of-kin of the said E. F., the intestate.
- (b).—Let the defendant retain for her own use one other third share of the said residue, as the mother, and one other of the next-of-kin of the said E. F., the intestate.
- (c).—And let the defendant, within one week after the taxation of the said costs by the Registrar as aforesaid, pay the remaining one-third share of the said residue to G. H., as the brother and the other next-of-kin of the said E. F., the intestate.

No. 133.

ORDER—DISSOLUTION OF PARTNERSHIP.

Section 215 of the Code of Civil Procedure.

(Title.)

It is declared that the partnership in the plaintiff mentioned between the plaintiff and defendant ought to stand dissolved as from the day of , and it is ordered that the dissolution thereof as from that day be advertised in the *Gazette, &c.*

And it is ordered that be the Receiver of the partnership-estate and effects in this suit, and do get in all the outstanding book-debts and claims of the partnership.

And it is ordered that the following accounts be taken:—

1. An account of the credits, property and effects now belonging to the said partnership;
 2. An account of the debts and liabilities of the said partnership;
 3. An account of all dealings and transactions between the plaintiff and defendant, from the foot of the settled account exhibited in this suit and marked (A), and not disturbing any subsequent settled accounts.
- And it is ordered that the goodwill of the business heretofore carried on by the plaintiff and defendant as in the plaintiff mentioned, and the stock-in-trade, be sold on the premises, and that the Registrar may, on the application of any of the parties, fix a reserved bidding for all or any of the lots at such sale, and that either of the parties is to be at liberty to bid at the sale.

And it is ordered that the above accounts be taken and all the other acts required to be done be completed before the day of , and that the Registrar do certify the result of the accounts, and that all other acts are completed, and have his certificate in that behalf ready for the inspection of the parties on the day of

And, lastly, it is ordered that this suit stand adjourned for making a final decree to the day of

No. 133.

PARTNERSHIP—FINAL DECREE.

Section 215 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Suit, No.

A. B. of
against
C. D. of

It is ordered that the fund now in court, amounting to the sum of Rs. be applied as follows:—

1. In payment of the debts due by the partnership set forth in the Registrar's certificate, amounting in the whole to Rs.

THE FOURTH SCHEDULE—continued.

2. In payment of the costs of all parties in this suit, amounting to Rs. [These costs must be ascertained before the decree is drawn up].
3. In payment of the sum of Rs. to the plaintiff as his share of the partnership-assets, of the sum of Rs. being the residue of the said sum of Rs. now in court, to the defendant as his share of the partnership-assets.
[Or, And that the remainder of the said sum of Rs. be paid to the said plaintiff [or defendant] in part payment of the sum of Rs. certified to be due to him in respect of the partnership-accounts.]
And that the defendant [or plaintiff] do on or before the day of pay to the plaintiff [or defendant] the sum of Rs. being the balance of the said sum of Rs. due to him, which will then remain due.

No. 134.

CERTIFICATE OF NON-SATISFACTION OF DECREE.
Section 224 of the Code of Civil Procedure.

IN THE COURT OF
Civil Suit, No. AT
of 18
A. B. of
against
C. D. of

CERTIFIED that no [or partial, as the case may be, and if partial, state to what extent] satisfaction of the decree of this Court, in Civil Suit No. of 18, a copy of which is herewith attached, has been obtained by execution within the jurisdiction of this Court.
GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 135.

NOTICE TO SHOW CAUSE WHY EXECUTION SHOULD NOT ISSUE.
Section 248 of the Code of Civil Procedure.

IN THE COURT OF
Civil Suit, No. AT
Miscellaneous, No. of 18
of 18
A. B. of
against
C. D. of

To WHEREAS
has made application to this Court for execution of decree in Civil Suit No. 18
this is to give you notice that you are to appear before this Court on the day of 18, either in person, or by a pleader of this Court, or agent duly authorized and instructed, to show cause, if any, why execution should not be granted.
GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 136.

WARRANT OF ATTACHMENT OF MOVABLE PROPERTY IN DEFENDANT'S POSSESSION IN EXECUTION OF A DECREE FOR MONEY.

Section 254 of the Code of Civil Procedure.
(Title.)

TO THE BAILIFF OF THE COURT.

WHEREAS day of 18, in Suit No. was ordered, by decree of this Court, passed on the 18, to pay to the plaintiff the sum of Rs. as noted in the margin; and whereas the said sum of Rs. has not been paid

DECREE.			
Principal			
Interest			
Costs			
Costs of decree			
Interest thereon			
Total of attachment			
Total			

THESE ARE TO COMMAND YOU to attach the movable property of the said as set forth in the list herewith annexed, or which shall be pointed out to you by the said, and unless the said shall pay to you the said sum of Rs. together with Rs. the costs of this attachment, to hold the same until further orders from this Court.
You are FURTHER COMMANDED to return this Warrant on or before the day of

THE FOURTH SCHEDULE—continued.

18, with an endorsement certifying the date and manner in which it has been executed, or why it has not been executed.

GIVEN under my hand and the seal of the Court, this day of 18 .
Schedule.

L. S.

Judge.

No. 137.

WARRANT TO THE BAILIFF TO GIVE POSSESSION OF LAND, &c.

Section 269 of the Code of Civil Procedure.

(Title.)

To THE BAILIFF OF THE COURT.

WHEREAS in the occupancy of the plaintiff in this suit: you are hereby directed to put the said in possession of the same, and you are hereby authorized to remove any person who may refuse to vacate the same.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 138.

ATTACHMENT IN EXECUTION.

PROHIBITORY ORDER, WHERE THE PROPERTY TO BE ATTACHED CONSISTS OF MOVABLE PROPERTY, TO WHICH THE DEFENDANT IS ENTITLED SUBJECT TO A LIEN OR RIGHT OF SOME OTHER PERSON TO THE IMMEDIATE POSSESSION THEREOF.

Section 268 of the Code of Civil Procedure.

(Title.)

To

WHEREAS has failed to satisfy a decree passed against on the day of 18 in favour of for Rs. : it is ordered that the defendant be, and is hereby, prohibited and restrained, until the further order of this Court, from receiving from the following property in the possession of the said that is to say, to which the defendant is entitled, subject to any claim of the said and the said is hereby prohibited and restrained, until the further order of this Court, from delivering the said property to any person or persons whomsoever.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 139.

ATTACHMENT IN EXECUTION.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF DEBTS NOT SECURED BY NEGOTIABLE INSTRUMENTS.

Section 268 of the Code of Civil Procedure.

(Title.)

To

WHEREAS has failed to satisfy a decree passed against on the day of 18 in Civil Suit, No. of 18 in favour of for Rs. : it is ordered that the defendant be, and hereby, prohibited and restrained, until the further order of this Court, from receiving from you a certain debt alleged now to be due from you to the said defendant, namely, and that you, the said

be, and you are hereby, prohibited and restrained, until the further order of this Court, from making payment of the said debt, or any part thereof, to any person whomsoever.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

THE FOURTH SCHEDULE—continued.

No. 140.

ATTACHMENT IN EXECUTION.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF SHARES IN A PUBLIC COMPANY, &c.
Section 268 of the Code of Civil Procedure.

To

Defendant, and to
Company.

Manager of
has failed

WHEREAS to satisfy a decree passed against on the day of 18 in Civil Suit, No. of 18 in favour of for Rs. it is ordered that you, the defendant, be, and you are hereby, prohibited and restrained, until the further order of this Court, from making any transfer of the aforesaid Company, namely, or from receiving payment of any dividends thereof; and you, the Manager of the said Company, are hereby prohibited and restrained from permitting any such transfer or making any such payment.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 141.

ATTACHMENT IN EXECUTION.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF IMMOVABLE PROPERTY.
Section 274 of the Code of Civil Procedure.

To

Defendant.

WHEREAS you have failed to satisfy a decree passed against you on the day of 18 in Civil Suit, No. of 18 in favour of for Rs. it is ordered that you, the said be, and you are hereby, prohibited and restrained, until the further order of this Court, from alienating the property specified in the schedule hereunto annexed, by sale, gift, or otherwise, and that all persons be, and that they are hereby, prohibited from receiving the same by purchase, gift, or otherwise.

GIVEN under my hand and the seal of the Court, this day of 18

Schedule.

L. S.

Judge.

No. 142.

ATTACHMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF MONEY OR OF ANY SECURITY IN THE HANDS OF A COURT OF JUSTICE OR OFFICER OF GOVERNMENT.
[Sections 272 and 486 of the Code of Civil Procedure.]

IN THE COURT OF

AT
Civil Suit, No. of 18

A. B.

against

C. D. of

To

SIR,

THE plaintiff having applied, under section of the Code of Civil Procedure, for an attachment of certain money now in your hands (*here state how the money is supposed to be in the hands of the person addressed, on what account, &c.*), I request that you will hold the said money subject to the further order of this Court.

I have the honour to be,

SIR,

Your most obedient Servant,

L. S.

Judge.

Dated the

day of

18

A P 1

THE FOURTH SCHEDULE—continued.

No. 143.

ORDER FOR PAYMENT TO THE PLAINTIFF, &c., OF MONEY, &c., IN THE HANDS OF A THIRD PARTY.

Section 277 of the Code of Civil Procedure.

IN THE COURT OF

AT
Civil Suit, No. of 18
Miscellaneous, No. of 18
A. B. of
against
C. D. of

To THE BAILIFF OF THE COURT AND TO

WHEREAS the following property has been attached in execution of a decree in Civil Suit, No. of 18, passed on the day of 18, in favour of for Rs. : it is ordered that the property so attached, consisting of Rs. in money, and Rs. in Currency notes, or a sufficient part thereof to satisfy the said decree, shall be paid over by you the said to, and that the said property, so far as may be necessary for the satisfaction of the said decree, shall be sold by you, the Bailiff of the Court, by public auction in the manner prescribed for sale in execution of decrees, and that the money which may be realized by such sale, or a sufficient part thereof to satisfy the said decree, shall be paid over to the said and the remainder if any, shall be paid to you, the said

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 144.

NOTICE TO ATTACHING CREDITOR.

Section 278 of the Code of Civil Procedure.

IN THE COURT OF

AT
Civil Suit, No. of 18
Miscellaneous, No. of 18
A. B. of
against
C. D. of

To

WHEREAS has made application to this Court for the removal of attachment on placed at your instance in execution of the decree in Civil Suit, No. of 18, this is to give you notice to appear before this Court on the day of 18, either in person or by a pleader of the Court duly instructed, to support your claim, as attaching creditor.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 145.

WARRANT OF SALE OF PROPERTY IN EXECUTION OF A DECREE FOR MONEY.

Section 287 of the Code of Civil Procedure.

IN THE COURT OF

AT
Civil Suit, No. of 18
Miscellaneous, No. of 18
A. B. of
against
C. D. of

To THE BAILIFF OF THE COURT.

THERE ARE TO COMMAND YOU to sell by auction, after giving notice, by affixing the same in this court-house, and after making due proclamation,* the days' previous property attached under a warrant from this Court dated the day of 18, in execution of a decree in favour of in suit No. of 18, or so much of the said property as shall realize the sum of Rs. , being the of the said decree and costs still remaining unsatisfied.

YOU ARE FURTHER COMMANDED to return this warrant on or before the day of 18, with an endorsement certifying the manner in which it has been executed, or the reason why it has not been executed.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

* This proclamation shall specify the time, the place of sale, the property to be sold, the revenue assessed, should the property consist of land paying revenue to Government, and the amount for the recovery of which the sale is ordered, and as fairly and accurately as possible the other particulars required by section 287 to be specified.

THE FOURTH SCHEDULE—continued.

No. 146.

NOTICE TO PERSON IN POSSESSION OF MOVEABLE PROPERTY SOLD IN EXECUTION.
Section 300 of the Code of Civil Procedure.IN THE COURT OF
Civil Suit, No.

AT

of 18

A. B. of

against

C. D. of

To

WHEREAS the purchaser at a sale by auction in execution of the decree in the above suit of has been the
now in your possession, you are hereby prohibited from delivering possession of the said
to any person except the said

GIVEN under my hand and the seal of the Court, this

day of

18

L. S.

Judge.

No. 147.

PROHIBITORY ORDER AGAINST PAYMENT OF DEBTS SOLD IN EXECUTION TO ANY OTHER THAN THE
PURCHASER.
Section 301 of the Code of Civil Procedure.

IN THE COURT OF

Civil Suit, No.

AT

of 18

A. B. of

against

C. D. of

To

and to

WHEREAS the purchaser at a public sale in execution of the decree in the above suit of has become
certain debt due from you to you
, that is to say, it is ordered that you be,
and you are hereby, prohibited from receiving, and you from making payment of, the said debt
to any person or persons except the said

GIVEN under my hand and the seal of the Court, this

day of

L. S.

Judge.

No. 148.

PROHIBITORY ORDER AGAINST THE TRANSFER OF SHARES SOLD IN EXECUTION.
Section 301 of the Code of Civil Procedure.

IN THE COURT OF

Civil Suit, No.

AT

of 18

A. B. of

against

C. D. of

To

Manager of

Company.

and WHEREAS has become the purchaser at a public sale in execution of the decree,
in the above suit of certain shares in the above Company, that is to say, of
standing in the name of you
, it is ordered that you be, and you are hereby
prohibited from making any transfer of the said shares to any person except the said
the purchaser aforesaid, or from receiving any dividends thereon; and you
Manager of the said Company, from permitting any such transfer or making any such
payment to any person except the said
purchaser aforesaid.

GIVEN under my hand and the seal of the Court, this

day of

18

L. S.

Judge.

THE FOURTH SCHEDULE—continued.

No. 149.

ORDER CONFIRMING SALE OF LAND, &c.
Section 312 of the Code of Civil Procedure.IN THE COURT OF
Civil Suit, No. of 18
AT
A. B. of
against
C. D. of

WHEREAS the following land [or immoveable property] was on the day of 18 sold by the Bailiff of this Court in execution of the decree in this suit; and whereas days have elapsed and no application has been made [or objection allowed] to the said sale, it is ordered that the said sale be, and the said sale is hereby, confirmed.

GIVEN under my hand and the seal of the Court, this day of 18 Schedule.

L. S.

Judge.

No. 150.

CERTIFICATE OF SALE OF LAND.
Section 316 of the Code of Civil Procedure.IN THE COURT OF
Civil Suit, No. of 18
AT
A. B. of
against
C. D. of

THIS is to certify that sale by public auction on the day of 18 has been declared the purchaser at execution of decree in this suit, and that the said sale has been duly confirmed by the Court.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 151.

ORDER FOR DELIVERY TO CERTIFIED PURCHASER OF LAND AT A SALE IN EXECUTION.
Section 318 of the Code of Civil Procedure.IN THE COURT OF
Civil Suit, No. of 18
AT
A. B. of
against
C. D. of

WHEREAS has become the certified purchaser of at a sale in execution of the decree in Civil Suit No. of 18 ; and whereas such land is in the possession of , you are hereby ordered to put the said the certified purchaser, as aforesaid, into possession of the said and if need be, to remove any person who may refuse to vacate the same.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 152.

AUTHORITY TO THE COLLECTOR TO STAY PUBLIC SALE OF LAND.
Section 326 of the Code of Civil Procedure.
IN THE COURT OF
Civil Suit, No. of 18
AT
A. B. of
against
C. D. of

To

Collector of

SIR, In answer to your communication No. , dated , representing that the sale in execution of the decree in this suit of and, lying within your district,

THE FOURTH SCHEDULE—continued.

paying revenue to Government, is objectionable, I have the honour to inform you that you are authorized to make provision for the satisfaction of the said decree in the manner recommended by you instead of proceeding to a public sale of

I have the honour to be,
Sir,
Your obedient Servant,

L. S.

Judge.

No. 153.

ORDER FOR COMMITTAL FOR RESISTING, &c., EXECUTION OF DECREE FOR LAND.
Section 329 of the Code of Civil Procedure.

(Title.)

To
WHEREAS it appears to the Court that
has without just cause resisted [or obstructed] the execution of the decree of the Court passed against
on the day of 18, in Civil Suit, No. of 18
whereby certain land or immoveable property was adjudged to
that the said be committed to custody for a period of , it is ordered
days.
GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 154.

WARRANT OF ARREST IN EXECUTION.
Section 337 of the Code of Civil Procedure.

IN THE COURT OF
Civil Suit, No. of 18
Miscellaneous, No. of 18
A. B. of
against
C. D. of

TO THE BAILIFF OF THE COURT.

WHEREAS
was adjudged by a decree of the Court, in
No. of 18, dated 18, to
pay to the plaintiff the sum of Rs. as noted in the
margin, and whereas the said sum of Rs. has
not been paid to the said plaintiff in satisfaction of the
said decree, these are to command you to arrest the said
defendant, and unless the said defendant shall pay to you
the said sum of Rs. together with Rs.
for the costs of executing this process, to bring the said
defendant before the Court with all convenient speed.
You are further commanded to return this warrant on or
before the day of 18, with an en-
dorsement certifying the day and manner in which it has

been executed, or the reason why it has not been executed.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 155.

NOTICE OF PAYMENT INTO COURT.
Section 377 of the Code of Civil Procedure.

IN THE COURT OF
B. No. A. B. v. C. D.

TAKE notice that the defendant has paid into Court Rs. , and says [that that sum is enough to
satisfy the plaintiff's claim for the plaintiff's claim for, &c.]
To Mr. X. Z.,
the Plaintiff's Pleader,
Z.,
Defendant's Pleader.

THE FOURTH SCHEDULE—continued.

No. 156.

COMMISSION TO EXAMINE ABSENT WITNESSES.
Section 386 of the Code of Civil Procedure.

IN THE COURT OF

Civil Suit, No.

of 18

AT

A. B. of

against

C. D. of

To

WHEREAS the evidence of
in the above suit; and whereas
gatories (or vivâ voce) of such witnesses
that purpose, and you are further requested to make return of such examination so soon as it may be taken
[process to require the attendance of the witness will be issued by this Court on your application].*

is required by the

you are requested to take the examination on interro.

and you are hereby appointed a Commissioner for

GIVEN under my hand and the seal of the Court, this day of

L. S.

Judge.

* Not necessary where the commission goes to another Court.

No. 157.

COMMISSION FOR A LOCAL INVESTIGATION, OR TO EXAMINE ACCOUNTS.
Sections 392 and 394 of the Code of Civil Procedure.

IN THE COURT OF

Civil Suit, No.

of 18

AT

A. B. of

against

C. D. of

To

WHEREAS it is deemed requisite, for the purposes of this suit, that a commission for

should be issued; you are hereby appointed

Commissioner for the purpose of

the attendance before you of any witnesses, or for the production of any documents which you may desire to
examine or inspect, will be issued by this Court on your application.]*

A sum of Rs.

being your fee in the above, is herewith forwarded.

GIVEN under my hand and the seal of the Court, this

day of

18

L. S.

Judge.

* Not necessary where the commission goes to another Court.

No. 158.

WARRANT OF ARREST BEFORE JUDGMENT.
Section 478 of the Code of Civil Procedure.

IN THE COURT OF

Civil Suit, No.

of 18

AT

A. B. of

against

C. D. of

TO THE BAILIFF OF THE COURT.

WHEREAS

has proved to the satisfaction of the Court that there is probable cause for believing that the defendant
is about to
the said

before the Court, in order that he may show cause why he should not furnish security to the

amount of rupees
suit shall be fully and finally disposed of, and until execution or satisfaction of any decree that may be passed
against
in the suit.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

THE FOURTH SCHEDULE—continued.

No. 159.

ORDER FOR COMMITTAL.

Section 494 of the Code of Civil Procedure.

IN THE COURT OF

Civil Suit, No.

AT

of 18

A. B. of
against
C. D. of

To

WHEREAS

plaintiff in this suit, has made application to the Court that security be taken for the appearance of the defendant to answer any judgment that may be passed in the suit; and whereas the Court has called upon the defendant to furnish such security, or to offer a sufficient deposit in lieu of security, which he has failed to do; it is ordered that the said defendant be committed to custody until the decision of the suit; or if judgment be given against him, until the execution of the decree.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 160.

ATTACHMENT BEFORE JUDGMENT, WITH ORDER TO CALL FOR SECURITY FOR FULFILMENT OF DECREE.

Section 484 of the Code of Civil Procedure.

IN THE COURT OF

Civil Suit, No.

AT

of 18

A. B. of
against
C. D. of

To THE BAILIFF OF THE COURT.

WHEREAS the defendant in the above suit has proved to the satisfaction of the Court that the defendant in the above suit these are to command you to call upon the said defendant on or before the day of either to furnish security for the sum of rupees to produce and place at the disposal of this Court when required or the value thereof, or such portion of the value as may be sufficient to fulfil any decree that may be passed against him, or to appear and show cause why he should not furnish security; and you are further ordered to attach the said and keep the same under safe and secure custody until the further order of the Court, and in what manner you shall have executed this warrant make appeal to the Court immediately after the execution hereof, and have you here then this warrant.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 161.

ATTACHMENT BEFORE JUDGMENT, ON PROOF OF FAILURE TO FURNISH SECURITY.

Section 485 of the Code of Civil Procedure.

IN THE COURT OF

CIVIL SUIT, No.

AT

of 18

A. B. of
against
C. D. of

To THE BAILIFF OF THE COURT.

WHEREAS the plaintiff in this suit, has applied to the Court to call upon the defendant, to furnish security to fulfil any decree that may be passed against him in the suit, and whereas the Court has called upon the said defendant to furnish such security which he has failed to do; these are to command you to attach the property of the said and keep the same under safe and secure custody until the further order of the Court, and in what manner you shall have executed this warrant make appeal to this Court immediately after the execution hereof, and have you here then this warrant.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

THE FOURTH SCHEDULE—continued.

No. 162.

ATTACHMENT BEFORE JUDGMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY TO BE ATTACHED CONSISTS OF MOVABLE PROPERTY, TO WHICH THE DEFENDANT IS ENTITLED, SUBJECT TO A LIEN OR RIGHT OF SOME OTHER PERSONS TO THE IMMEDIATE POSSESSION THEREOF.

Section 486 of the Code of Civil Procedure.

IN THE COURT OF

Civil Suit, No.

AT

of 18
A. B. of
against
C. D. of

To

It is ordered that you the said Defendant,
prohibited and restrained until the further order of this Court from receiving from be, and you are hereby,
the following property in the possession of the said that
is to say to which the defendant is entitled, subject to any claim of the said
and the said is hereby prohibited and restrained, until the further order
of this Court, from delivering the said property to any persons whomsoever.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 163.

ATTACHMENT BEFORE JUDGMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF IMMOVABLE PROPERTY.

Section 490 of the Code of Civil Procedure.

IN THE COURT OF

Civil Suit, No.

AT

of 18
A. B. of
against
C. D. of

To

It is ordered that you the said Defendant,
be, and you are hereby, prohibited and restrained, until the
further order of this Court, from alienating the property specified in the schedule hereunto annexed, by sale, gift
or otherwise, and that all persons be, and that they are hereby, prohibited from receiving the same by purchase,
gift or otherwise.

GIVEN under my hand and the seal of the Court, this day of 18 .
Schedule.

L. S.

Judge.

No. 164.

ATTACHMENT BEFORE JUDGMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF MONEY IN THE HANDS OF OTHER PERSONS,
OR OF DEBTS NOT BEING NEGOTIABLE INSTRUMENTS.

Section 496 of the Code of Civil Procedure.

IN THE COURT OF

Civil Suit, No.

AT

of 18
A. B. of
against
C. D. of

To

It is ordered that the defendant be, and he is hereby, prohibited
and restrained, until the further order of this Court, from receiving from
the [money now in hands belonging to the said defendant
or debts, as the case may be, describing them] and that the said be, and
hereby prohibited and restrained, until the further order of this Court, from making
payment of the said [money, &c.], or any part thereof, to any person whomsoever.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

THE FOURTH SCHEDULE—continued.

No. 165.

ATTACHMENT BEFORE JUDGMENT.

PROHIBITORY ORDER, WHERE THE PROPERTY CONSISTS OF SHARES IN A PUBLIC COMPANY, &c.
Section 496 of the Code of Civil Procedure.

IN THE COURT OF

Civil Suit, No.

AT

of 18

A. B. of

against

C. D. of

Defendant and to

To

Manager of

It is ordered that

be, and
order of the Court, from making any transfer of
being
receiving payment of any dividends thereof, and you
of the said Company, are hereby prohibited and restrained from permitting any such transfer, or making
any such payment.

Company.
the defendant,
hereby, prohibited and restrained, until the further
shares
in the aforesaid Company, or from
Manager
any such transfer, or making

GIVEN under my hand and the seal of the Court, this

day of

18

L. S.

Judge.

No. 166.

TEMPORARY INJUNCTIONS.

Section 492 of the Code of Civil Procedure.

Upon motion made unto this Court by , Pleader of [or Counsel for] the plaintiff, A. B.,
and upon reading the petition of the said plaintiff in this matter filed [this day] [or the plaint filed in this cause
on the day of
] and upon hearing the evidence of
in support thereof, [if after notice and defendant not appearing: add,
and
as to service of notice of this motion upon
the defendant, C. D.] This Court doth order that an injunction be awarded to restrain the defendant, C. D.,
his servants, workmen and agents from pulling down, or suffering to be pulled down, the house in the plaint
in the said suit of the plaintiff mentioned [or in the written statement, or petition, of the plaintiff and evidence
at the hearing of this motion mentioned] being No. 9, Oilmongers Street, Hindupur, in the Talug of
and from selling the materials whereof the said house is composed, until the hearing of this cause
or until the further order of this Court.

Dated this

day of

18

Civil Judge.

[Where the injunction is sought to restrain the negotiation of a note or bill, the ordering part of the
order may run thus:—]
and
from parting with out of the custody of them or any of them
or endorsing, assigning or negotiating the promissory note [or bill of exchange] in question, dated on or about the
[or the written statement, or petition, of the plaintiff and evidence
heard at this motion until the hearing of this cause, or until the further order of this Court.
[In Copyright cases]
to restrain the defendant, C. D.,
his servants, agents or workmen from printing, publishing, or vending a book, called
, or any part thereof, until the, &c.

[Where part only of a book is to be restrained]
to restrain the
defendant, C. D., his servants, agents or workmen from printing, publishing, selling, or otherwise disposing
of such parts of the book in the plaint [or petition and evidence, &c.] mentioned to have been published by
the defendant as hereinafter specified, namely, that part of the said book which is entitled
also that part which is entitled
in page
the , &c.
to page
[or which is contained
both inclusive] until

[In Patent cases]
to restrain the defendant, C. D., his agents,
servants and workmen, from making or vending any perforated bricks (or as the case may be) upon
the principle of the inventions in the plaintiff's plaint [or petition, &c., or written statement, &c.] mentioned,
belonging to the plaintiffs, or either of them, during the remainder of the respective terms of the patents in the
plaintiff's plaint [or as the case may be] mentioned, and from counterfeiting, imitating or resembling the same
inventions, or either of them, or making any addition thereto, or subtraction therefrom, until the hearing, &c.
[In cases of Trademarks]
to restrain the defendant, C. D., his
servants, agents or workmen, from selling, or exposing for sale, or procuring to be sold, any composition or
blackening [or, as the case may be] described as or purporting to be blackening manufactured by the plaintiff,
A. B., in bottles having affixed thereto such labels as in the plaintiff's plaint [or petition, &c.] men-
tioned, or any other labels so contrived or expressed as, by colourable imitation or otherwise, to represent the
composition or blackening sold by the defendant to be the same as the composition or blackening manufactured
and sold by the plaintiff, A. B., and from using trade-cards so contrived or expressed as to represent that any
composition or blackening sold or proposed to be sold by the defendant is the same as the composition or blackening
manufactured or sold by the plaintiff, A. B., until the, &c.

THE FOURTH SCHEDULE—continued

[To restrain a partner from in any way interfering in the business]

to restrain the defendant, C. D., his agents and servants, from entering into any contract, and from accepting, drawing, endorsing or negotiating any bill of exchange, note or written security, in the name of the partnership-firm of R. & D., and from contracting any debt, buying and selling any goods, and from making or entering into any verbal or written promise, agreement or undertaking, and from doing or causing to be done, any act, in the name or on the credit of the said partnership-firm of R. & D., or whereby the said partnership-firm can or may in any manner become or be made liable to or for the payment of any sum of money, or for the performance of any contract, promise or undertaking, until the, &c.

No. 167.

NOTICE OF APPLICATION FOR INJUNCTION.

Section 494 of the Code of Civil Procedure.

IN THE COURT OF

AT

A. B. of

against

C. D. of

TAKE notice that I, A. B., intend to apply at the sitting of the Court at aforesaid, on the day of for an injunction to restrain C. D. from further prosecuting a suit which he has commenced against me in to recover damages for the breach of the contract for the specific performance of which this suit was commenced [or to restrain him from receiving and giving discharges for any of the debts due to the partnership in the matter of the partnership between us for the winding-up of which the suit was commenced, or from digging the turf from the land which was agreed to be sold by him to me by the agreement, the specific performance of which this suit is commenced to enforce or, as the case may be].

Dated this day of

18

To C. D.

[N. B.—Where the injunction is to be applied for against a party whose name and address do not appear upon any proceeding already filed in the suit, such name and address must be stated in full to enable the proper officer to serve the notice.]

No. 168.

APPOINTMENT OF A RECEIVER.

Section 503 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Suit, No.

of 18

A. B. of

against

C. D. of

To

WHEREAS has been attached in execution of a decree passed in the above suit on the day of 18, in favour of you are hereby (subject to your giving security to the satisfaction of the Registrar) appointed Receiver of the said property under section 503 of the Code of Civil Procedure, with full powers under the provisions of that section.

You are required to render a due and proper account of your receipts and disbursements in respect of the said property on You will be entitled to remuneration at the rate of per cent. upon your receipts under the authority of this appointment.

GIVEN under my hand and the seal of the Court, this day of 18

L. S.

Judge.

No. 169.

BOND TO BE GIVEN BY RECEIVER.

Section 503 of the Code of Civil Procedure.

IN THE COURT OF

AT

Civil Suit, No.

of

A. B. of

against

C. D. of

Know all men by these presents, that we, I. J. of, &c., and K. L. of, &c., and M. N. of, &c., are jointly and severally bound to G. H., Registrar of the Court of in Ra. to be paid to the said G. H. or his attorney, executors, administrators or assigns. For which payment to be made we bind ourselves, and each of us, in the whole, our and each of our heirs, executors and administrators, jointly and severally, by these presents.

Dated this day of

18

And whereas a plaint has been filed in this Court by A. B. against C. D. for the purpose of [here insert object of suit].

THE FOURTH SCHEDULE—continued.

And whereas the said *I. J.* has been appointed, by order of the above-mentioned Court, to receive the rents and profits of the immovable property, and to get in the outstanding moveable property of *O. P.*, the testator in the said plaint named.

Now the condition of this obligation is such, that if the above-bounden *I. J.* shall duly account for all and every the sum and sums of money which he shall so receive on account of the rents and profits of the immovable property, and in respect of the moveable property of the said *O. P.* [or, as may be] at such periods as the said Court shall appoint, and shall duly pay the balances which shall from time to time be certified to be due from him as the said Court hath directed or shall hereafter direct, then this obligation shall be void, otherwise it shall remain in full force.

I. J.
K. L.
M. N.

Signed and delivered by the above-bounden in the presence of

NOTE.—If deposit of money be made, the memorandum thereof should follow the terms of the condition of the bond.

No. 170.

ORDER OF REFERENCE TO ARBITRATION UNDER AGREEMENT OF PARTIES.

Section 508 of the Code of Civil Procedure.

(Title.)

To

WHEREAS the above-mentioned plaintiff and defendant have agreed to refer the matters in difference between them in the above suit to your arbitration and award, you are hereby appointed accordingly to determine all the said matters in difference between the parties, and with power, by consent of the parties, to determine which party shall pay the costs of this reference.

You are required to deliver your award in writing to this Court on or before the day of 18, or such other day as this Court may further fix.

Process to compel the attendance before you of any witnesses, or for the production of any documents which you may desire to examine or inspect, will be issued by this Court on your application, and you are empowered to administer to such witnesses oath or affirmation.

A sum of Rs. , being your fee in the above suit, is herewith forwarded.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

No. 171.

ORDER OF REFERENCE TO ARBITRATION BY COURT, WITH CONSENT.

Section 508 of the Code of Civil Procedure.

(Title.)

Upon reading a petition of the plaintiff, filed this day, and on the consent of for the defendant, and upon hearing for the plaintiff and for the defendant, it is ordered, by and with the consent of all the parties, that all matters in difference in this suit, including all dealings and transactions between all parties, be referred to the final determination of

, who is to make his award in writing and submit the same to this Court, together with all proceedings, depositions and exhibits in this suit, within one month from the date hereof. And it is ordered further, by and with the like consent, that the said arbitrator is to be at liberty to examine the parties and their witnesses upon oath or affirmation, which he is empowered to administer, and that the said arbitrators shall have all such powers or authorities as are vested in arbitrators under the Code of Civil Procedure, including therein power to call for all books of account that he may consider necessary. And it is further ordered, by and with the like consent, that the costs of this suit, together with the costs of reference to arbitration, up to and including the award of the said arbitrator, and the enforcement thereof, do abide the result of the finding of the said arbitrator. And it is further ordered, by and with the like consent, that the said arbitrator be at liberty to appoint a competent accountant to assist him in the investigation of the several matters referred to him as aforesaid, and that the remuneration of such accountant and other charges attending thereto be in the discretion of the said arbitrator.

GIVEN under my hand and the seal of the Court, this day of 18 .

L. S.

Judge.

THE FOURTH SCHEDULE—continued.

No. 172.

SUMMONS IN SUMMARY SUIT ON NEGOTIABLE INSTRUMENT.

Section 532 of the Code of Civil Procedure.

No. of suit.

IN THE COURT OF

AT

Plaintiff.

To

Defendant.

[Here enter the defendant's name, description and address.]

WHEREAS [here enter the plaintiff's name, description and address] has instituted a suit in this Court against you under Chapter XXXIX of the Code of Civil Procedure for Rs. _____ principal and interest [or balance of principal and interest] due to him as the payee [or endorsee] of a bill of exchange [or hundi or promissory note], of which a copy is hereto annexed, you are hereby summoned to obtain leave from the Court within ten days from the service hereof, inclusive of the day of such service, to appear and defend the suit, and within such time to cause an appearance to be entered for you. In default whereof the plaintiff will be entitled at any time after the expiration of such ten days to obtain a decree for any sum not exceeding the sum of Rs. [here state the sum claimed] and the sum of Rs. _____ for costs.

Leave to appear may be obtained on an application to the Court supported by affidavit or declaration showing that there is a defence to the suit on the merits, or that it is reasonable that you should be allowed to appear in the suit.

[Here copy the bill of exchange, hundi or promissory note, and all endorsements upon it.]

No. 173.

MEMORANDUM OF APPEAL.

Section 541 of the Code of Civil Procedure.

MEMORANDUM OF APPEAL.

(Name, &c., as in Register.) Plaintiff—Appellant.

(Name, &c., as in Register.) Defendant—Respondent.

[Name of Appellant] [plaintiff or defendant] above-named appeals to the High Court at [or District Court at] _____, as the case may be, against the decree of _____ in the above suit dated the _____ day of _____, for the following reasons, namely, [here state the grounds of objection.]

THE FOURTH SCHEDULE—continued.

No. 174.

REGISTER OF APPEALS.

Section 548 of the Code of Civil Procedure.

COURT (OR HIGH COURT) AT
REGISTER OF APPEALS FROM DECREES in the year 18 . . .

Date of Memorandum.	APPELLANT.			RESPONDENT.			DECREE APPEALED FROM.						APPEARANCE.			JUDGMENT.		
	Name.	Description.	Place of abode.	Name.	Description.	Place of abode.	Of what Court.	No. of Original Suit.	Particulars.	Amount or Value.	Day for parties to appear.	Appellant.	Respondent.	Date.	Confirmed, reversed or allowed.	For what or Amount.		

THE FOURTH SCHEDULE—continued.

No. 175.

NOTICE TO RESPONDENT OF THE DAY FIXED FOR THE HEARING OF THE APPEAL.
Section 553 of the Code of Civil Procedure.

IN THE COURT OF

AT

APPEAL from the *Appellant, v.* *Respondent.*
dated the _____ of the Court of _____ day of _____ 18 ____
Respondent.

To

TAKE notice that an appeal from the decree of _____
in this case has been presented by _____
and registered in this Court, and that the
day of _____ 18 ____ has been fixed by this Court for the hearing of this appeal.
If no appearance is made on your behalf by yourself, your pleader, or by some one by law authorized to
act for you in this appeal, it will be heard and decided *ex parte* in your absence.
GIVEN under my hand and the seal of the Court, this _____ day of _____ 18 ____.

L. S.

Judge.

[NOTE.—If a stay of execution has been ordered, intimation should be given of the fact on this notice.]

No. 176.

DECREE ON APPEAL.

Section 579 of the Code of Civil Procedure.

IN THE COURT OF

AT

APPEAL from the *Appellant, v.* *Respondent.*
day of _____ of the Court of _____ dated the _____ 18 ____
Memorandum of Appeal.

*Plaintiff.**Defendant.*

Plaintiff [or defendant] above-named appeals to the _____ Court at _____
day of _____ against the decree of _____ in the above suit, dated the _____ 18 ____

[Here state the reasons]

This appeal coming on for hearing on the _____ day of _____ 18 ____
before _____, in the presence of : _____
for the Appellant, and of _____ for the Respondent, it is ordered—

[Here state the relief granted]

The costs of this appeal, amounting to _____, are to be paid by _____
The costs of the original suit are to be paid by _____
GIVEN under my hand, this _____ day of _____ 18 ____.

L. S.

Judge.

THE FOURTH SCHEDULE—continued.

[illegible]

THE FOURTH SCHEDULE—concluded.

No. 178.

NOTICE TO SHOW CAUSE WHY A REVIEW SHOULD NOT BE GRANTED.

Section 626 of the Code of Civil Procedure.

IN THE COURT OF _____, Plaintiff, v. _____ AT _____, Defendant.

To
 TAKE notice that _____ has applied to this Court for a review
 of its judgment passed on the _____ day of _____ 18 _____ in the above case.
 The _____ day of _____ 18 _____ is fixed for you to show cause why the Court should not
 grant a review of its judgment in this case.

GIVEN under my hand and the seal of the Court, this _____ day of _____ 18 _____

L. S.

Judge.

No. 179.

NOTICE OF CHANGE OF PLEADER.

IN THE COURT OF _____ AT _____
 A. B. of _____
 against _____
 C. D. of _____

TO THE REGISTRAR OF THE COURT.

TAKE notice that I, A. B. [or C. D.], have hitherto employed as my pleader G. H. of _____ in the above-mentioned cause, but that I have ceased to employ him, and that my present pleader is J. K. of _____

A. B. [or C. D.]

No. 180.

MEMORANDUM TO BE PLACED AT FOOT OF EVERY SUMMONS, NOTICE, DECREE OR ORDER OF COURT, OR ANY OTHER PROCESS OF THE COURT.

Hours of attendance at the office of the Registrar [place of office] from ten till four, except on [here insert the day on which the office will be closed], when the office will be closed at one.

R. J. CROSTHWAITE,

Offg. Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 17th March, 1882, and is hereby promulgated for general information:—

ACT No. XV of 1882.

THE PRESIDENCY SMALL CAUSE COURTS ACT, 1882.

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An Act to consolidate and amend the law relating to the Courts of Small Causes established in the Presidency towns.

WHEREAS it is expedient to consolidate and amend the law relating to the Courts of Small Causes established in the towns of Calcutta, Madras and Bombay; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Presidency Small Cause Courts Act, 1882"; and it shall come into force on the first day of July, 1882.
- Short title.
- Commencement.

But nothing herein contained shall affect the provisions of the Army Act, 1881, section 151, or the rights or liabilities of any person under any decree passed before that day.

2. On and from the said day the enactments specified in the first schedule hereto annexed shall be repealed to the extent mentioned therein.
- Repeal of enactments.

But all Courts constituted, appointments made and securities given under any of the said enactments shall, so far as may be, be deemed to have been respectively constituted, made and given under this Act.

All references to any enactment hereby repealed made in Acts passed prior to the said day shall be read, so far as may be practicable, as if made to this Act or the corresponding provisions hereof.

References in previous Acts.

3. In Act No. XXIII of 1850 (*for securing the Land-revenue of Calcutta*), section 8, for the word and figures "Act VII. 1847," the words and figures "The Presidency Small Cause Courts Act, 1882, Chapter VIII," shall be substituted; the words "as provided by the said Act" shall be repealed; and for each of the expressions "a Commissioner of the Court for recovery of small debts referred to in the said Act," and "the said Commissioners" the words "the Judges of the Court of Small Causes at Calcutta," shall be substituted.
- Amendment of Acts.

In the Code of Civil Procedure, section 8, after the word and figures "chapter XXXIX" the words and figures "and by the Presidency Small Cause Courts Act, 1882," shall be inserted.

4. In this Act, "the Small Cause Court" means the Court of Small Causes constituted under this Act in the town of Calcutta, Madras or Bombay, as the case may be.
- "Small Cause Court" defined.

CHAPTER II.

CONSTITUTION AND OFFICERS OF THE COURT.

5. There shall be in each of the towns of Calcutta, Madras and Bombay a Court, to be called the Court of Small Causes of Calcutta, Madras or Bombay, as the case may be.
- Courts of Small Causes established.

6. The Small Cause Court shall be deemed to be a Court subject to the superintendence, under superintendence, of the High Court of Judicature at Fort William, Madras or Bombay, as the case may be, within the meaning of the Letters Patent, respectively dated the 28th day of December, 1865, for such High Courts and within the meaning of the Code of Civil Procedure; and the High Court shall have, in respect of the Small Cause Court, the same powers as it has under the twenty-fourth and twenty-fifth of Victoria, chapter 104, section 15, in respect of Courts subject to its appellate jurisdiction.

7. Subject to the control of the Governor General in Council, the Local Government may, from time to time, by notification in the official Gazette, appoint a person to be Chief Judge, and so many other persons as it thinks fit to be Judges, of the Small Cause Court: Provided that not less than one-third of the persons so appointed, including the Chief Judge, shall be advocates of one of the said High Courts.
- Appointment, suspension and removal of Judges.

The Local Government may, by a like notification, suspend and, with the previous sanction of the Governor General in Council, remove any Judge so appointed.

All barristers who when this Act comes into force are, or are acting as, Judges of the Small Cause Court shall, for the purposes of this section, be deemed to be advocates of a High Court.

8. The Chief Judge shall be the first of the Judges in rank and precedence.
- Rank and precedence of Judges.

The other Judges shall have rank and precedence as the Local Government may, from time to time, direct.

9. Except as otherwise provided by this Act or any other law for the time being in force, the Small Cause Court may, with the previous sanction of the High Court, make rules to provide, in such manner as it thinks fit, for all matters not specially provided for by this Act, and for the exercise by one or more of its Judges of any powers conferred on the Small Cause Court by this Act or by any other law for the time being in force.
- Power to make rules.

10. Subject to such rules, the Chief Judge may, from time to time, make such arrangements as he thinks fit for the distribution of the business of the Court among the various Judges thereof.

11. Save as hereinafter otherwise provided, when two or more of the Judges sitting together differ on any question, the opinion of the majority shall prevail; and if the Court is equally divided, the Chief Judge, if he is one of the Judges so differing, or in his absence the Judge first in rank and precedence of the Judges so differing, shall have the casting voice.

12. The Small Cause Court shall use a seal of such form and dimensions as are for the time being prescribed by the Local Government.

13. The Local Government may, from time to time, appoint an officer to be called the Registrar of the Court, and to be the chief ministerial officer of the Court;

and the Chief Judge may, from time to time, subject to the control of the Local Government, appoint as many clerks, bailiffs and other ministerial officers as may be necessary for the administration of justice by the Court, and for the exercise and performance of the powers and duties conferred and imposed on it by this Act or any other law for the time being in force.

The Registrar and other officers so appointed shall exercise such powers, and discharge such duties, of a ministerial nature as the Chief Judge may, from time to time, by rule, direct.

The Chief Judge may suspend or remove any Registrar or other officer so appointed; but the removal of any Registrar or officer drawing a monthly salary of one hundred rupees or upwards shall be subject to the orders of the Local Government.

14. The Local Government may invest the Registrar with the powers of a Judge under this Act for the trial of suits in which the amount or value of the subject-matter does not exceed twenty rupees. And, subject to the orders of the Chief Judge, any Judge of the Small Cause Court may, whenever he thinks fit, transfer from his own file to the file of the Registrar any suit which the latter is competent to try.

15. No Judge or other officer appointed under this Act shall, during his continuance as such Judge or officer, either by himself or as a partner of any other person, practise or act, either directly or indirectly, as an advocate, attorney, vakil or other legal practitioner, or be concerned, either on his own account or for any other person, or as the partner of any other person, in any trade or profession.

Any such Judge or officer so practising, acting or concerned shall be deemed to have committed an offence under section 168 of the Indian Penal Code.

Nothing herein contained shall be deemed to prohibit any such Judge or officer from being a member of any company incorporated or registered under Royal Charter, Letters Patent, Act of Parliament or Act of any British Indian legislature.

CHAPTER III.

LAW ADMINISTERED BY THE COURT.

16. All questions, other than questions relating to procedure or practice, which arise in suits or other proceedings under this Act in the Small Cause Court shall be dealt with and determined according to the law for the time being administered by the High Court in the exercise of its ordinary original civil jurisdiction.

CHAPTER IV.

JURISDICTION IN RESPECT OF SUITS.

17. The local limits of the jurisdiction of each of the Small Cause Courts shall be the local limits for the time being of the ordinary original civil jurisdiction of the High Court.

18. Subject to the exceptions in section nineteen, the Small Cause Court shall have jurisdiction to try all suits of a civil nature—

when the amount or value of the subject-matter does not exceed two thousand rupees: and

(a) the cause of action has arisen, either wholly or in part, within the local limits of the jurisdiction of the Small Cause Court, and the leave of the Court has, for reasons to be recorded by it in writing, been given before the institution of the suit; or

(b) all the defendants, at the time of the institution of the suit, actually and voluntarily reside, or carry on business, or personally work for gain, within such local limits; or

(c) any of the defendants, at the time of the institution of the suit, actually and voluntarily resides, or carries on business, or personally works for gain, within such local limits, and either the leave of the Court has been given before the institution of the suit, or the defendants who do not reside, or carry on business, or personally work for gain, as aforesaid, acquiesce in such institution.

Explanation I.—When in any suit the sum claimed is, by a set-off admitted by both parties, reduced to a balance not exceeding two thousand rupees, the Small Cause Court shall have jurisdiction to try such suit.

Explanation II.—Where a person has a permanent dwelling at one place and also a lodging at another place for a temporary purpose only, he shall be deemed to reside at both places in respect of any cause of action arising at the place where he has such temporary lodging.

Explanation III.—A Corporation or Company shall be deemed to carry on business at its sole or principal office in British India, or, in respect of any cause of action arising at any place where it has also a subordinate office, at such place.

Suits in which Court has no jurisdiction. **19.** The Small Cause Court shall have no jurisdiction in—

- (a) suits concerning the assessment or collection of the revenue;
- (b) suits concerning any act ordered or done by the Governor General in Council or the Local Government, or by the Governor General or a Governor, or by any Member of the Council of the Governor General or of the Governor of Madras or Bombay, in his official capacity, or by any person by order of the Governor General in Council or the Local Government;
- (c) suits concerning any act ordered or done by any Judge or judicial officer in the execution of his office, or by any person in pursuance of any judgment or order of any Court or any such Judge or judicial officer;
- (d) suits for the recovery of immoveable property;
- (e) suits for the partition of immoveable property;
- (f) suits for the foreclosure or redemption of a mortgage of immoveable property;
- (g) suits for the determination of any other right to or interest in immoveable property;
- (h) suits for the specific performance or rescission of contracts;
- (i) suits to obtain an injunction;
- (j) suits for the cancellation or rectification of instruments;
- (k) suits to enforce a trust;
- (l) suits for a general average loss and suits on policies of insurance on sea-going vessels;
- (m) suits for compensation in respect of collisions on the high seas;
- (n) suits for compensation for the infringement of a patent, copyright or trademark;
- (o) suits for a dissolution of partnership or for an account of partnership-transactions;
- (p) suits for an account of property and its due administration under the decree of the Court;
- (q) suits for compensation for libel, slander, malicious prosecution, adultery or breach of promise of marriage;
- (r) suits for the restitution of conjugal rights, for the recovery of a wife, or for a divorce;
- (s) suits for declaratory decrees;

(t) suits for possession of a hereditary office;

(u) suits against Sovereign Princes or Ruling Chiefs, or against Ambassadors or Envoys of Foreign States;

(v) suits on any judgment of a High Court;

(w) suits the cognizance whereof by the Small Cause Court is barred by any law for the time being in force.

20. When the parties to a suit which, if the Court may by consent try suits beyond pecuniary limits of jurisdiction. amount or value of the subject-matter thereof did not exceed two thousand rupees, would be cognizable by the Small Cause Court, have entered into an agreement in writing that the Small Cause Court shall have jurisdiction to try such suit, the Court shall have jurisdiction to try the same, although the amount or value of the subject-matter thereof may exceed two thousand rupees.

Every such agreement shall be filed in the Small Cause Court, and, when so filed, the parties to it shall be subject to the jurisdiction of the Court, and shall be bound by its decision in such suit.

21. All suits to which an officer of the Small Cause Court is, as such, a party, except suits in respect of property taken in execution of its process, or the proceeds or value thereof, may be instituted in the High Court at the election of the plaintiff as if this Act had not been passed.

22. If any suit cognizable by the Small Cause Court, other than a suit to which section twenty-one applies, is instituted in the High Court, and if in such suit the plaintiff obtains, in the case of a suit founded on contract, a decree for any matter of an amount or value less than two thousand rupees, and in the case of any other suit a decree for any matter of an amount or value of less than three hundred rupees, no costs shall be allowed to the plaintiff;

and if in any such suit the plaintiff does not obtain a decree, the defendant shall be entitled to his costs as between attorney and client.

The foregoing rules shall not apply to any suit in which the Judge who tries the same certifies that it was one fit to be brought in the High Court.

CHAPTER V.

PROCEDURE IN SUITS.

23. The portions of the Code of Civil Procedure specified in the second schedule hereto annexed shall extend, and shall, Portions of Civil Procedure Code extending to the Court.

so far as the same may, in the judgment of the Court, be applicable, be applied, to the Small Cause Court; and the procedure prescribed thereby shall be the procedure followed in the Court in all suits cognizable by it, except where such procedure is inconsistent with the procedure prescribed by any specific provisions of this Act:

Provided that the Court may, subject to the control of the Local Government, from time to time, by notification in the official Gazette, declare that any of the said portions of the said Code shall not extend and be applied to the Small Cause Court, or that any of such portions shall so extend and be applied with such modifications as the Court, subject to the control aforesaid, may think fit.

24. Except in cases of set-off under the Code of Civil Procedure, section 111, no written statement shall be received unless required by the Court.

25. When a period of eight days from the decision of a suit has expired without any application for a new trial or re-hearing of such suit having been made, or when any such application has been made within such period and such application has been refused, or the new trial or re-hearing (as the case may be) has ended, any person, whether a party to the suit or not, desirous of receiving back any document produced by him in the suit and placed on the record, shall, unless the document is impounded under section 143 of the Code of Civil Procedure, be entitled to receive back the same:

Provided that a document may be returned at any time before any of such events on such terms as the Court may direct: Provided also that no document shall be returned which by force of the decree has become void or useless.

On the return of a document which has been admitted in evidence, a receipt shall be given, by the party receiving it, in a receipt-book to be kept for the purpose.

26. In any suit in which the defendant appears and does not admit the claim, and the plaintiff does not obtain a decree for the full amount of his claim, the Small Cause Court may in its discretion order the plaintiff to pay to the defendant, by way of satisfaction for his trouble and attendance, such sum as it thinks fit.

When any claim preferred, or objection made, under section 278 of the Code of Civil Procedure is disallowed, the Small Cause Court may in its discretion order the person preferring or making such claim or objection to pay to the decree-holder, or to the judgment-debtor, or to both, by way of satisfaction as aforesaid, such sum or sums as it thinks fit.

And when any claim or objection is allowed the Court may award such compensation by way of damages to the claimant or objector as it thinks fit; and the order of the Court awarding or refusing such compensation shall bar any suit in respect of injury caused by the attachment.

Any order under this section may, in default of payment of the amount payable thereunder, be enforced by the person in whose favour it is made against the person against whom it is made as if it were a decree of the Court.

27. Whenever the Small Cause Court issues a warrant for the arrest of a judgment-debtor or the attachment of his property, the decree-holder, or some other person on his behalf, shall accompany the officer of the Court entrusted with the execution of such warrant, and shall point out to such officer the judgment-debtor or the property to be attached, as the case may be.

28. When the judgment-debtor under any decree of the Small Cause Court is a tenant of immovable property, anything attached to such property, and which he might before the termination of his tenancy lawfully remove without the permission of his landlord, shall, for the purpose of the execution of such decree, be deemed to be moveable property, and may, if sold in such execution, be severed by the purchaser, but shall not be removed by him from the property until he has done to the property whatever the judgment-debtor would have been bound to do to it if he had removed such thing.

29. Whenever any judgment-debtor, who has been arrested or whose property has been seized in execution of a decree of the Small Cause Court, offers security to the satisfaction of such Court for payment of the amount which he has been ordered to pay and the costs, the Court may order him to be discharged or the property to be released.

30. Whenever it appears to the Small Cause Court that any judgment-debtor under its decree is unable, from sickness, poverty or other sufficient cause, to pay the amount of the decree, or, if such Court has ordered the same to be paid in instalments, the amount of any instalment thereof, it may, from time to time, for such time and upon such terms as it thinks fit, suspend the execution of such decree and discharge the debtor, or make such order as it thinks fit.

31. If the judgment-debtor under any decree of the Small Cause Court has not, within the local limits of its jurisdiction, moveable property sufficient to satisfy the decree, the Court

may, on the application of the decree-holder, send the decree for execution—

(a) in the case of execution against immoveable property situate within such local limits—to the High Court;

(b) in all other cases—to any Civil Court within the local limits of whose jurisdiction such judgment-debtor, or any moveable or immoveable property of such judgment-debtor, may be found.

The procedure prescribed by the Code of Civil Procedure when decrees are transferred. Procedure for the execution of decrees by Courts other than those which made them shall be the procedure followed in such cases.

32. Notwithstanding anything contained in the Code of Civil Procedure certain cases as if of full age. as applied by this Act, any minor may institute a suit for any sum of money, not exceeding five hundred rupees, which may be due to him under section 70 of the Indian Contract Act, 1872, for wages or piece-work or for work as a servant, in the same manner as if he were of full age.

33. Any non-judicial or quasi-judicial act which the Code of Civil Procedure as applied by this Act requires to be done by a Judge, and any act which may be done by a Commissioner appointed to examine and adjust accounts under section 394 of that Code as so applied, may be done by the Registrar of the Small Cause Court or by such other officer of that Court as that Court may, from time to time, appoint in this behalf.

The High Court may, from time to time, by rule declare what shall be deemed to be non-judicial and quasi-judicial acts within the meaning of this section.

34. The suits cognizable by the Registrar under section fourteen shall be heard and determined by him in like manner in all respects as a Judge of the Court might hear and determine the same:

Provided that, subject to the control of the Chief Judge, any Judge of the Court may, whenever he thinks fit, transfer to his own file any suit on the file of the Registrar.

35. The Registrar may receive applications for the execution of decrees of any value passed by the Court, and may commit and discharge judgment-debtors, and make any order in respect thereof which a Judge of the Court might make under this Act.

36. Every decree and order made by the Registrar in any suit or proceeding shall be subject to the same provisions in regard to new trial as if made by a Judge of the Court.

CHAPTER VI.

NEW TRIALS AND RE-HEARING.

37. Save as is herein specially provided, every decree and order of the Small Cause Court in a suit shall be final and conclusive; but the Court may, on application of either party, made within eight days from the date of the decree or order in any suit (not being a decree passed under section 522 of the Code of Civil Procedure), order a new trial to be held, or alter, set aside or reverse the decree or order, upon such terms as it thinks reasonable, and may, in the meantime, stay the proceedings.

38. Any party may, within eight days after the judgment in any suit in the Small Cause Court in which the amount or value of the subject-matter exceeds one thousand rupees, apply to the High Court for an order that such suit may be re-heard in the High Court.

Such application shall be supported by affidavits, and, in case the applicant has appeared in the Small Cause Court by advocate, vakil, attorney or pleader, by a certificate from such advocate, vakil, attorney or pleader that in his opinion there are good grounds for re-hearing the suit, and if, on hearing such application, the High Court is of opinion that there has been a miscarriage or failure of justice, or that there are other good grounds for such re-hearing, the Court shall make an order *ex parte*, on such terms as it thinks fit, for such re-hearing, and fix a day for the same, whereof notice shall be given to the opposite party.

The rules contained in sections 515, 546 and 547 of the Code of Civil Procedure, relating to staying and executing decrees under appeal, shall apply in the case of applications under this section as if such applications were appeals from the decisions of the Small Cause Court.

39. On the day fixed under section thirty-eight or on any other day to which the re-hearing may be adjourned, the High Court, or some Judge thereof, shall proceed to re-hear and determine the case as if the same were a suit brought in such High Court in its ordinary original civil jurisdiction, in which the plaintiff in the Small Cause Court was plaintiff, and the defendant in such Court was defendant, and in which written statements had not been ordered to be filed; and, except as herein otherwise provided, all the practice and procedure of such High Court in respect of suits brought in its ordinary original civil jurisdiction shall be followed in suits re-heard under this section: Provided that there shall not be any appeal from any judgment, decree or order under this section.

40. Every decree or order made by any High Court upon any such re-hearing may either be executed by such High Court in the same manner as other decrees or orders of such Court or may, in the

discretion of the High Court, be remitted to the Small Cause Court for execution.

CHAPTER VII.

RECOVERY OF POSSESSION OF IMMOVEABLE PROPERTY.

41. When any person has had possession of any immovable property situate within the local limits of the Small Cause Court's jurisdiction and of which the annual value at a rack-rent does not exceed one thousand rupees, as the tenant, or by permission, of another person, or of some person through whom such other person claims,

and such tenancy or permission has determined or been withdrawn,

and such tenant or occupier or any person holding under or by assignment from him (hereinafter called the occupant) refuses to deliver up such property in compliance with a request made to him in this behalf by such other person,

such other person (hereinafter called the applicant) may apply to the Small Cause Court for a summons against the occupant, calling upon him to show cause, on a day therein appointed, why he should not be compelled to deliver up the property.

42. The summons shall be served on the occupant in the manner provided by the Code of Civil Procedure for the service of a summons on a defendant.

43. If the occupant does not appear at the time appointed and show cause to the contrary, the applicant shall, if the Small Cause Court is satisfied that he is entitled to apply under section forty-one, be entitled to an order addressed to a bailiff of the Court directing him to give possession of the property to the applicant on such day as the Court thinks fit to name in such order.

Explanation.—If the occupant proves that the tenancy was created or permission granted by virtue of a title which determined previous to the date of the application, he shall be deemed to have shown cause within the meaning of this section.

44. Any such order shall justify the bailiff to whom it is addressed in entering after the hour of six in the morning and before the hour of six in the afternoon upon the property named therein, with such assistants as he thinks necessary, and giving possession of such property to the applicant: and no suit or prosecution shall be maintainable against any Judge or officer of the Small Cause Court by whom any such order as aforesaid was issued, or against any bailiff or other

person by whom the same was executed, or by whom any such summons as aforesaid was served, for the issue, execution or service of any such order or summons, by reason only that the applicant was not entitled to the possession of the property.

45. When the applicant, at the time of applying for any such order as aforesaid, was entitled to the possession of such property, neither he nor any person acting in his behalf shall be deemed, on account of any error, defect or irregularity in the mode of proceeding to obtain possession thereunder, to be a trespasser; but any person aggrieved may bring a suit for the recovery of compensation for any damage which he has sustained by reason of such error, defect or irregularity:

when no such damage is proved, the suit shall be dismissed; and when such damage is proved but the amount of the compensation assessed by the Court does not exceed ten rupees, the Court shall award to the plaintiff no more costs than compensation, unless the Judge who tries the case certifies that in his opinion full costs should be awarded to the plaintiff.

46. Nothing herein contained shall be deemed to protect any applicant obtaining possession of any property under this chapter from a suit by any person deeming himself aggrieved thereby, when such applicant was not at the time of applying for such order as aforesaid entitled to the possession of such property.

And when the applicant was not, at the time of applying for any such order as aforesaid, entitled to the possession of such property, the application for such order, though no possession is taken thereunder, shall be deemed to be an act of trespass committed by the applicant against the occupant.

47. Whenever on an application being made under section forty-one the occupant binds himself, with two sureties, in a bond for such amount as the Small Cause Court thinks reasonable, having regard to the value of the property and the probable costs of the suit next hereinafter mentioned, to institute without delay a suit in the High Court against the applicant for compensation for trespass and to pay all the costs of such suit in case he does not prosecute the same or in case judgment therein is given for the applicant, the Small Cause Court shall stay the proceedings on such application until such suit is disposed of.

If the occupant obtains a decree in any such suit against the applicant, such decree shall supersede the order (if any) made under section forty-three.

Nothing contained in section twenty-two shall apply to suits under this section.

48. In all proceedings under this chapter, the Small Cause Court shall, as far as may be and except as herein otherwise provided, follow the procedure prescribed for a Court of first instance by the Code of Civil Procedure.

49. Recovery of the possession of any immovable property under this chapter shall be no bar to the institution of a suit in the High Court for trying the title thereto.

CHAPTER VIII.

DISTRESSES.

50. This chapter extends to every place within the local extent of the local limits of the ordinary original civil jurisdictions of the High Courts of judicature at Fort William, Madras and Bombay. But nothing contained in this chapter applies—

- (a) to any rent due to Government;
- (b) to any rent which has been due for more than twelve months before the application mentioned in section fifty-three.

51. The Judges of the Small Cause Court may appoint four or more persons to be bailiffs and appraisers for the purpose of this chapter, and may from time to time, with the previous sanction of the Local Government, fix such remuneration for the services of such officers as the said Judges think fit, and may suspend or remove them.

52. The persons so appointed shall give security, to be approved by the said Judges, faithfully to discharge the duties of their office, and they shall be deemed to be public servants within the meaning of the Indian Penal Code.

53. Any person claiming to be entitled to arrears of rent of any house or premises to which this chapter extends, or his duly constituted attorney, may apply to any Judge of the Small Cause Court, or to the Registrar of the Small Cause Court, for such warrant as is hereinafter mentioned.

The application shall be supported by an affidavit or affirmation to the effect of the form (marked A) in the third schedule hereto annexed.

54. The Judge or Registrar may thereupon issue a warrant under his hand and seal and returnable within six days, to the effect of the form (marked B), contained in the same schedule addressed to any one of such bailiffs.

The Judge or Registrar may at his discretion, upon personal examination of the person applying for such warrant, decline to issue the same.

55. Every distress under this chapter shall be made after sunrise and before sunset, and not at any other time.

56. The bailiff directed to make the distress may force open any stable, outhouse or other building, and may also enter any dwelling-house the outer door of which may be open, and may break open the door of any room in such dwelling-house for the purpose of seizing property liable to be seized under this chapter:

Provided that he shall not enter or break open the door of any room appropriated for the *zanáná* or residence of women, which by the usage of the country is considered private.

57. In pursuance of the warrant aforesaid the bailiff shall seize the moveable property found in or upon the house or premises mentioned in the warrant and belonging to the person from whom the rent is claimed (hereinafter called the debtor), or such part thereof as may in the bailiff's judgment be sufficient to cover the amount of the said rent, together with the costs of the said distress:

Provided that the bailiff shall not seize—

- (a) things in actual use; or
- (b) tools and implements not in use, where there is other moveable property in or upon the house or premises sufficient to cover such amount and costs; or
- (c) the debtor's necessary wearing apparel; or
- (d) goods in the custody of the law.

58. The bailiff may impound or otherwise secure the property so seized in or on the house or premises chargeable with the rent.

59. On seizing any property under section fifty-seven the bailiff shall make an inventory of such property, and shall give a notice in writing to the effect of the form (marked C) in the third schedule hereto annexed to the debtor, or to any other person upon his behalf in or upon the said house or premises.

The bailiff shall, as soon as may be, file in the Small Cause Court copies of the said inventory and notice.

60. The debtor, or any other person alleging himself to be the owner of any property seized under this chapter, or the duly constituted attorney of such debtor or other person, may, at any time within five days from such

seizure, apply to any Judge of the said Court to discharge or suspend the warrant, or to release a distrained article, and such Judge may discharge or suspend such warrant or release such article accordingly, upon such terms as he thinks just,

and any of the Judges of the said Court may in his discretion give reasonable time to the debtor to pay the rent due from him.

Upon any such application, the costs attending it and attending the issue and execution of the warrant shall be in the discretion of the Judge, and shall be paid as he directs.

61. If any claim is made to, or in respect of, any property seized under this chapter, or in respect of the proceeds or value thereof, by any person not being the debtor, the Registrar of the Small Cause Court, upon the application of the bailiff who seized the property, may issue a summons calling before the Court the claimant and the person who obtained the warrant.

And thereupon any suit which may have been brought in the High Court in respect of such claim shall be stayed, and any Judge of the High Court, on proof of the issue of such summons and that the property was so distrained, may order the plaintiff to pay the costs of all proceedings in such suit after the issue of such summons.

And a Judge of the Small Cause Court shall adjudicate upon such claim and make such order between the parties in respect thereof and of the costs of the proceedings as he thinks fit;

and such order shall be enforced as if it were an order made in a suit brought in such Court.

The procedure in Small Cause Courts in cases under this section shall conform, as far as may be, to the procedure in an ordinary suit in such Courts.

62. In any case under section sixty or section sixty-one the Judge by whom the case is heard may award such compensation by way of damages to the applicant or claimant (as the case may be) as the Judge thinks fit,

and may for that purpose make any enquiry he thinks necessary;

and the order of the Judge awarding or refusing such compensation shall bar any suit for the recovery of compensation for any damage caused by the distress.

63. In any case under section sixty or section sixty-one, if the value of the subject-matter in dispute exceeds one thousand rupees, the applicant or claimant may apply to the High Court to transfer the case to itself, and the High Court, on being satisfied that it is expedient that the case should be disposed of by itself, may direct the case to be transferred accordingly, and may thereupon alter or set aside any order

passed in the case by a Judge of the Small Cause Court, and may make such order therein as the High Court thinks fit.

Every application under this section shall be made within seven days from the date of the seizure of the subject-matter in dispute.

In granting applications under this section, the High Court may impose such terms as to payment of, or giving security for, costs or otherwise as it thinks fit.

The procedure in cases transferred under this section shall conform, as far as may be, to the procedure in suits before the High Court in the exercise of its ordinary original civil jurisdiction; and orders made under this section may be executed as if they were made in the exercise of such jurisdiction; and every such order awarding or refusing compensation shall bar any suit for the recovery of compensation for any damage caused by the distress which gave rise to the case wherein such order was made.

64. In default of any order to the contrary by a Judge of the Small Cause Court or by the High Court, any two of the said bailiffs may, at the expiration of five days from a seizure of property under this chapter, appraise the property so seized, and give the debtor notice in writing to the effect of the form (marked D) in the third schedule hereto annexed.

The bailiffs shall file in the Small Cause Court a copy of every notice given under this section.

65. In default of any such order to the contrary, the distrained property shall be sold on the day mentioned in such notice, and the said bailiffs shall on realizing the proceeds pay over the amount thereof to the Registrar of the Small Cause Court; and such amount shall be applied first in payment of the costs of the said distress and then in satisfaction of the debt; and the surplus, if any, shall be returned to the debtor:

Provided that the debtor may direct that the sale shall take place in any other manner, first giving security for any extra costs thereby occasioned.

66. No costs of any distress under this chapter shall be taken or demanded except those mentioned in the part (marked E) of the third schedule hereto annexed.

The Judges of the Small Cause Court may apply the sum so raised as costs towards the payment of the contingent charges and remuneration of the said bailiffs, as appears to the said Judges expedient.

67. The Registrar of the Small Cause Court shall keep a book in which all sums received as costs upon distresses made under this chapter, and all sums paid as remuneration to the said bailiffs, and all contingent charges incurred in respect of such distresses, shall be duly entered.

He shall also enter in the said book all sums realized by sale of the property distrained and paid over to landlords under the provisions of this chapter.

68. No distress shall be levied for arrears of rent, except under the provisions of this chapter;

And any person, except a bailiff appointed under section fifty-one, levying or attempting to levy any such distress shall, on conviction before a Presidency Magistrate, be liable to be punished with fine which may extend to five hundred rupees and with imprisonment for a term which may extend to three months, in addition to any other liability he may have incurred by his proceedings.

CHAPTER IX.

REFERENCES TO HIGH COURT.

69. If two or more Judges of the Small Cause Court sit together in any suit, or in any proceeding under Chapter VII of this Act, and differ in their opinion as to any question of law or usage having the force of law, or the construction of a document, which construction may affect the merits,

or if in any suit or any such proceeding, in which the amount or value of the subject-matter exceeds five hundred rupees, any such question arises, and either party so requires,

the Small Cause Court shall draw up a statement of the facts of the case, and refer such statement, under section 617 of the Code of Civil Procedure, for the opinion of the High Court, and shall either reserve judgment or give judgment contingent upon such opinion.

70. When judgment is given under section sixty-nine contingent upon the opinion of the High Court, the party against whom such judgment is given shall at once furnish security, to be approved by the Small Cause Court, for the costs of the reference to the High Court and for the amount of such judgment:

Provided that no security for the amount of such judgment shall be required in any case in which the Judge who tried the case has ordered such amount to be paid into Court, and the same has been paid accordingly.

Unless such security as aforesaid is at once furnished, the party against whom such contingent judgment has been given shall be deemed to have submitted to the same.

If no such security given, party to be deemed to have submitted to judgment.

CHAPTER X.

FEES AND COSTS.

Institution-fee.

71. A fee not exceeding—
(a) when the amount or value of the subject-matter does not exceed five hundred rupees—the sum of two annas in the rupee on such amount or value,

(b) when the amount or value of the subject-matter exceeds five hundred rupees—the sum of sixty-two rupees eight annas, and one anna in the rupee on the excess of such amount or value, over five hundred rupees,

shall be paid on the plaint in every suit, and every application under section thirty-eight or section forty-one; and no such plaint or application shall be received until such fee has been paid.

An additional fee of ten rupees shall be paid on the filing of every agreement under section twenty.

72. The fees specified in the third and fourth columns of the fourth Schedule hereto annexed shall be paid previous to the issue in any suit or in any proceeding under Chapter VII of this Act of the processes, to which the said columns respectively relate, by the persons on whose behalf such processes are issued, when the amount or value of the subject-matter exceeds the sum specified in the first column, but does not exceed the sum specified in the second column of the said Schedule.

73. Whenever any such suit or proceeding is repaid of half settled by agreement of the parties before the hearing, half the amount of all fees paid up to that time shall be repaid by the Small Cause Court to the parties by whom the same have been respectively paid.

74. The Small Cause Court may, whenever it thinks fit, receive and register suits instituted, and applications under section forty-one made, by poor persons, and may issue processes on behalf of such persons, without payment or on a part-payment of the fees mentioned in sections seventy-one and seventy-two.

75. The Local Government may, from time to time, by notification in the official Gazette, vary the amount of the fees payable under sections seventy-one and seventy-two:

Provided that the amount of such fees shall in no case exceed the amount prescribed by the said sections.

76. The expense of employing an advocate, vakil, attorney or other legal practitioner incurred by any party shall not be allowed as costs in any suit or in any proceeding under Chapter VII of this Act, in the Small Cause Court, in which suit or pro-

Expense of employing legal practitioners.